




# Seattle Reentry Workgroup Final Report

Prepared in response to the City of Seattle Resolution 31637

**October 2018**



**Seattle**  
Office for Civil Rights



**Abstract:** This report fulfills the requirements under Resolution 31637 requesting the Mayor to convene a workgroup to develop policies and strategies that would strengthen the City of Seattle’s effort to assist with reentry after incarceration. The Reentry Workgroup’s Final Report includes: (1) inventories of the City’s current investments for those returning from incarceration; (2) an assessment of City levied criminal and infraction fines and fees and their impact on reentry; and (3) seven strategies to strengthen the City’s support and reduce barriers for those living with criminal history.

## Acknowledgments

We would like to acknowledge and thank the many individuals and organizations who provided support, expertise, and shared their experiences and wisdom throughout this process. We also recognize those who have been supporting folks returning from incarceration and organizing for institutional change for a very long time. We know that much of that work has been done without compensation or acknowledgment yet done with love and an unyielding commitment to family and community strength. We thank you for that work and hope these recommendations support you. We also acknowledge that the individuals most impacted by the recommendations in this report are unable to join us at the City's tables, as they are still incarcerated. We did this work in your honor.

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## EXECUTIVE SUMMARY

*“If someone enters prison when they are a youth or young adult and leaves prison decades later, there is significant work that needs to be done to help shape a healthy identity, foster a sense of belonging, and develop a connection to a supportive community...You can offer education, a job, a house, but if you aren’t fixing what’s inside the shell—none of that will matter. Drumming, singing, sweat lodge. Those things give those guys their identity back.”* George Farrell, Reentry Workgroup member, and member of the Standing Rock Lakota Tribe

In December 2015, Seattle City Council unanimously passed Resolution 31637 with Mayoral support, establishing a workgroup led by the Seattle Office for Civil Rights, to develop policies and strategies that would strengthen the City’s efforts to assist with reentry after incarceration. The resolution requested a report to City Council with recommended changes to City policies, ordinances, strategies or programs. The Reentry Workgroup’s scope of work consisted of four main tasks that guide the structure of this report.<sup>1</sup> The Workgroup enthusiastically presents these recommendations and the Report’s seven strategies.

The Reentry Workgroup (referred to as “The Workgroup” for the remainder of the report) began meeting monthly in November of 2016. The Workgroup is composed of individuals with direct knowledge of the criminal legal system, representatives from King County, social justice organizations, and designees of relevant City departments including: the Office of Housing, the Office for Civil Rights, the Human Services Department, the Seattle Municipal Court, the Legislative Department, and the City Attorney’s Office.

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<sup>1</sup> The scope of work includes:

1. Inventory the City’s current work to help individuals with criminal history transition into stable housing and employment.
2. Inventory and assess the City’s current imposition and collections of fees and fines for criminal violations and infractions and the impact of such on successful reentry.
3. Identify areas where the City’s efforts would be strengthened by more effective coordination with other criminal justice agencies, and define steps needed to effectuate those changes.
4. Develop a set of additional policies, ordinances, strategies, or programs the City of Seattle can implement to facilitate re-entry and remove unnecessary barriers to employment, housing, and other benefits.

Though City department staff provided technical support and expertise to the Workgroup, it is the Workgroup's members with lived experience of incarceration who selected and steered the development of these recommendations. Many Workgroup members contributed to the research, writing, and editing of this report. To get here was a truly collaborative process that included almost two years of meetings and capacity building, Indigenous drumming circles, a community report back event, and many hours sharing and listening to stories of incarceration and the transition after release.

This report represents the voices and priorities of those who are impacted by the criminal legal system but who are often not sitting at the institution's table developing strategies for system reform. Thus, the real value in this report is the illumination of perspectives and ideas that are not traditionally elevated by the government.

**To help prioritize, select, and develop the Workgroup's recommendations and strategies, the Workgroup developed the principles below.**

### **The Reentry Workgroup's Principles:**

**Center race:** The existence of racial disproportionality, connections between mass incarceration and institutional racism, and racialized collateral consequences demand that we center Black, Indigenous, Latinx communities, and communities of color who have been most impacted by racism and incarceration.

### **Address structural barriers and support individual determination:**

Poverty, institutional racism, and systemic oppression are root causes that lead to mass incarceration. Reentry work must be individually tailored but cannot, at its foundation, assign blame or failure based on morality or merit at the individual level. The recommendations acknowledge and attempt to address the institutional racism that creates and fuels systemic issues feeding oppression.

**Decriminalize poverty and/or health needs:** Punishment and incarceration are harmful and ineffective tools to address behaviors triggered by poverty and illness. The Workgroup imagines and supports a framework that shifts from punitive to restorative responses that lead to healthy and thriving individuals and communities.

**Prioritize issues the City controls and/or influences:** The City is responsible for incarceration and thus the reentry of thousands of individuals every year through the adjudication of those at Seattle Municipal Court. The Workgroup

also recognizes the City's responsibility to individuals in prisons throughout our state who call Seattle home and hope to return upon release. The City must be accountable to these residents and invest in their success before their release and upon their return home.

**Report Structure:** The Final Report is divided into three sections:

**The first section:** provides a background of the resolution, history of the Workgroup, key decisions the Workgroup made that helped guide their decision-making process, and a snapshot of Seattle's reentering population.

**The second section:** includes (1) requested inventories of the City's current work, (2) an inventory and assessment of the City's collection of fines and fees, and (3) recommendations regarding coordination.

**The third section:** includes the Workgroup's seven strategies to strengthen support and reduce barriers for those living with criminal history.

## **Summary of the Workgroup's Recommendations and Strategies:**

**Coordination:** The Workgroup supports increased coordination between systems and communities so long as coordination is driven by a set of values that align with the principles set forth above.

**Repurpose Current City Investments:** The City currently invests \$2,787,123 in "reentry" support. The City also spends approximately \$20,000,000 to incarcerate misdemeanor defendants of Seattle Municipal Court (SMC).<sup>2</sup> The Workgroup urges the City to move its investments away from something we know to cause significant harm, to more restorative and effective responses that build stable and safe communities.

These include strategies that facilitate reentry while removing barriers to employment, housing, and other life sustaining resources:

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<sup>2</sup> See City Budget Office: Online Budget, <http://www.seattle.gov/city-budget/2017-18-adopted-budget/criminal-justice-contracted-services> (last visited Aug. 31, 2018).

## Strategy 1 | Indigenous Healing

Invest in specific strategies that center and support the reentering Indigenous community members.

## Strategy 2 | Reentry Healing & Navigation

Support development and growth of community-rooted programs and networks owned and/or led by formerly incarcerated individuals to guide successful reentry and support the healing process.

## Strategy 3 | Economic Opportunities

Develop strategies around small business support, City workforce development, and technology-based opportunities that lead to economic opportunity for those living with criminal history.

## Strategy 4 | Housing

Commit to providing housing for people living with criminal history and make targeted and diverse investments to ensure permanent housing is available for people living with criminal history.

### **Strategies to reduce incarceration costs and system involvement include:**

## Strategy 5 | City's Use of Jails

To reimagine the City's use of incarceration by reducing reliance on jail for misdemeanors except as required by law; providing outcome-oriented oversight for the City's contract with county jails that is informed by those who have experience of incarceration; and that supports decarceration and the City's goal to reach zero use of youth detention.

## Strategy 6 | Decriminalization

Move away from relying on the criminal legal system to address poverty and health inequities and instead develop responses that do not burden individuals with criminal history or the trauma of incarceration. Recommended decriminalization strategies which include:

- The City Attorney's Office should exercise prosecutorial discretion to decline cases disproportionately impacting poor people, limit requests for jail sentences, and instead develop and rely on more effective solutions.



- City Council should remove drug traffic loitering and prostitution loitering from the City's criminal code.
- The Seattle Police Department should develop guidelines to limit arrests for misdemeanor offenses.
- The City should establish supervised drug consumption facilities, also commonly called "safe consumption spaces" or "Community Health Engagement Locations."
- The City should update race data collection practices to accurately capture Latinx communities and other communities of color.

## Strategy 7 | Reentry Workgroup Next Phase

To fully reach the goal of Resolution 31637, we recommend the establishment of a criminal legal system advisory board that (1) informs the City's policies that impact the criminal legal system and/or reentry support; (2) monitors the implementation of any recommendation from this report; and (3) is led by those with lived experience and who are equipped with a strong analysis of systemic racism and the criminal legal system.

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This report is just a first step. What follows the report presents the City with an opportunity to demonstrate its commitment to reaching the laudable goals of Resolution 31637 and the City's intent to support those reentering from incarceration and living with criminal history. A City committed to racial equity and ending institutional racism must invest more in supporting individuals and communities who have been targeted and entangled by the criminal legal system than it does in financing mass incarceration. The Workgroup hopes this report encourages the City to eliminate the unnecessary use of jail and harmful criminal legal system entanglement and to shift funding to culturally focused holistic reentry healing and support, effective and restorative responses to unwanted behaviors, and investments that create pathways to housing stability and true economic opportunity.

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## PART ONE

### BACKGROUND

In December 2015, the Seattle City Council unanimously passed Resolution 31637, establishing the Reentry Workgroup to examine and inventory current practices creating barriers for individuals interacting with Seattle’s criminal legal system and to develop and recommend policies that would strengthen the City’s efforts to assist with reentry after incarceration.<sup>3</sup> This report and its recommendations are the product of this examination.

The resolution recognizes the City’s role in identifying and addressing obstacles for individuals who have been incarcerated and/or are living with criminal history. The goal of the Workgroup and its recommendations is to guide efforts to mitigate the negative impact of incarceration on individuals.

#### **The Workgroup’s scope of work outlined in the Resolution consisted of four main tasks:**

1. Inventory the City’s current work to help individuals with criminal history transition into stable housing and employment.
2. Inventory and assess the City’s current imposition and collections of fees and fines for criminal violations and infractions and the impact of such on successful reentry.<sup>4</sup>
3. Identify areas where the City’s efforts would be strengthened by more effective coordination with other criminal justice agencies, and define steps needed to effectuate those changes.

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<sup>3</sup> See Press Release, Seattle City Council, Council Forms Prisoner and Community Corrections Re-entry Work Group (Dec. 7, 2015), available at [http://www.seattle.gov/news/newsdetail\\_council.asp?ID=15402](http://www.seattle.gov/news/newsdetail_council.asp?ID=15402).

<sup>4</sup> It is the Workgroup’s understanding that the development of Resolution 31637 was prompted, in large part, by actions on both the state and national level. The scope of work defined by Resolution 31637 was a direct result of the United States Department of Justice Civil Rights Division report on the “Investigation of the Ferguson Police Department.” This investigation began in response to the killing of Michael Brown by a Ferguson Police Department officer and examined broad law enforcement practices in Ferguson including in its Municipal Court and collection of fines and fees for criminal and infraction violations. The City of Seattle wanted to ensure that Seattle’s revenue from fines and fees is not driving municipal court practice and disproportionately targeting communities of color and communities in poverty as was discovered by the report on Ferguson.

4. Develop a set of additional policies, ordinances, strategies, or programs the City of Seattle can implement to facilitate reentry and remove unnecessary barriers to employment, housing and other benefits.

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## A NOTE ON LANGUAGE AND A REQUEST:

The original name of the Workgroup, as named in Resolution 31637, was “the Prisoner and Community Corrections Re-Entry Workgroup.” The Workgroup is now called “the Reentry Workgroup” to reflect the shift in how we refer to individuals who are living with criminal history and/or have been incarcerated. In the words of the great Eddie Ellis, who spent his life after incarceration challenging our acceptance of prisons and advocating for system transformation, “we must create new terms and a new language that more properly expresses both our understanding of the present reality and our vision to challenge and change that reality for the future.”<sup>5</sup>

The Workgroup asks that we not dehumanize those living with criminal history by using terms like “felon,” “prisoner,” “inmate,” “convict,” or “offender.” These labels invoke images that are often racialized and reduce individuals to a label rather than honoring their full selves. They perpetuate racial profiling on an individual level by government agents and civilians. They serve to justify ill treatment and discrimination of people whose personhood is secondary to their criminal classification in society.<sup>6</sup>

Although the Workgroup finds the use of “reentry” acceptable, the terms “reentry”, “returning,” or “reintegration” are still imprecise. These terms imply a return to a place where someone at one time belonged and an acceptance of the premise that the process of overcoming incarceration comes to an end. The reality is that many individuals exiting incarceration have never felt that they belonged, or were valued, and the burdens of living with criminal history and the trauma of incarceration often last a lifetime.

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<sup>5</sup> See Eddie Ellis (ezwaters) WordPress, Words Matter: Another Look at the Question of Language, <https://ezwaters.wordpress.com/2017/12/17/words-matter-another-look-at-the-question-of-language-by-eddie-ellis-president-center-for-nuleadership-on-urban-solutions/> (last visited Aug. 31, 2018).

<sup>6</sup> Eddie Ellis and the Center for NuLeadership offer 4 easy steps to follow to prevent the spread of dehumanizing language:

1. Be conscious of the language you use. Remember that each time you speak, you convey powerful word images.
2. Stop using the terms offender, felon, prisoner, inmate, and convict.
3. Substitute the word PEOPLE for these other negative terms.
4. Encourage your friends, family and colleagues to use positive language in their speech, writing, publications and electronic communications. See Center for NuLeadership on Urban Solutions, An Open Letter to Our Friends on the Question of Language, available at <https://cmjcenter.org/wp-content/uploads/2017/07/CNUS-AppropriateLanguage.pdf>.

*“Re-entry assumes that people in prison were integrated into society in meaningful ways before they went to prison. Thus, when they have completed their sentences and are ready to leave prison they can be re-integrated into society to pick up where they left off, hence the term “re-entry” (i.e., to enter again). The reality is that this population (Black, Latino, youth, poor, generally male) were never a part of the institutional framework of society to begin. This misinformation is disturbing and leads to faulty assumptions and incorrect remedial recommendations. If anything, this population was at the margins of society and for the most part was excluded from its basic institutions such as the schools, labor, church, health and family.”<sup>7</sup> Eddie Ellis*

**Our request:** The Workgroup asks that the City make a long-term and ongoing commitment to review and update its use of language when describing individuals living with criminal history in all its legislation, policies, and materials.

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## WORKGROUP TIMELINE & COMPOSITION

The Workgroup began meeting in November 2016, and includes individuals with experience transitioning from incarceration, stakeholders who represent individuals impacted by the criminal legal system, King County representatives, and relevant City department staff. The Workgroup has attempted to center the voices and leadership of those who have lived experience of incarceration. Thus, City department representative roles have been limited to technical advice and support. These recommendations were selected and supported by those Workgroup members who have been incarcerated and live with criminal history.<sup>8</sup>

The Seattle Office for Civil Rights convenes, facilitates, and participates in the Workgroup. Other department representation includes the Human Services Department (HSD), the Office of Housing (OH), the City Attorney’s Office (CAO), Seattle Municipal Court (SMC), and the Legislative Department. King County representation includes Department of Public Defense and King County’s Behavioral Health and Recovery Division. Organizations represented on the Workgroup include: Career Bridge at Urban League, F.I.G.H.T. (Formerly Incarcerated Group Healing Together), Casa Latina, Disability Rights Washington, Pioneer Human Services, Public

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<sup>7</sup> See Eddie Ellis “Re-entry vs. Resettlement: Towards Alternative Policies Medgar Evers College,” City University of New York.

<sup>8</sup> The departments providing representation on the Workgroup may not necessarily adopt these recommendations as representatives were not asked to request support for these recommendations from their departments.

Defender Association, VOCAL-WA (Voices of Community Activists and Leaders), Chief Seattle Club, and Columbia Legal Services. Participation also included a University of Washington fellow researching legal financial obligations.

Because the Workgroup is composed of individuals with diverse experience and knowledge, many of the Workgroup's monthly meetings during its first year were devoted to developing a shared understanding and analysis necessary to tackle the scope of work and accomplish its goals. This included lessons and workshops on Seattle's criminal legal system, the interplay between race and mass incarceration, the imposition of fines and fees and burdens of legal debt, current City reentry investments, and community priorities regarding reentry support.<sup>9</sup> After developing this shared capacity, the Workgroup developed a definition of "reentry" and principles to help guide the development and prioritization of recommendations.<sup>10</sup>

In the fall of 2017, the workgroup presented preliminary recommendations to City Council. The Reentry Workgroup then shared these preliminary recommendations with community organizations and leaders working on reentry issues and those who have been impacted by incarceration. Members of the Workgroup also attended Black Prisoner Caucus events at Clallam Bay Corrections Center and Stafford Creek. To further develop and prioritize these recommendations, the Workgroup sponsored an Indigenous healing drumming ceremony for those who have returned from incarceration from the Indigenous community and a community conversation for those who have direct experience with incarceration.

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## REENTRY DEFINITION

**An individual in reentry is a person living with criminal history.**

The Workgroup's definition of reentry is broad to ensure it includes all individuals that are experiencing reentry barriers because of their criminal history. However, the Workgroup acknowledges that each community may require specific and unique solutions. Race, gender identity, length of incarceration, age at incarceration, and disability such as substance use disorder are just some of the factors that may change needs and appropriate support upon exit.

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<sup>9</sup> Seattle's Reentry Workgroup is a piece of a much larger landscape of government-led and community-owned efforts working to address barriers for those returning from incarceration. Acknowledging that many of these efforts have been established for years and honoring the work that is already being done by others, the Workgroup has tried to maintain relationships with these other efforts to not duplicate work and to help build momentum for projects and policies that share the same goals.

<sup>10</sup> In total, the Workgroup met in full approximately twenty times during since its first convening in November of 2016. In addition to these monthly meetings, the Workgroup had subcommittees that met on an as-needed basis.

The Workgroup’s recommendations are aimed at reentry populations and communities of color who have been targeted and oppressed by the criminal legal system. These may include: individuals currently exiting from incarceration, individuals who have experienced long prison sentences, and those individuals who may face additional issues in conjunction with their incarceration history that make successful reentry more challenging.

The Workgroup knows that barriers to housing, employment, healthcare, and healthy community connections exist not only for individuals recently released from prison, but also for individuals who were released decades ago.

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## CURRENT LANDSCAPE OF REENTERING INDIVIDUALS IN SEATTLE

### Seattle’s Reentering Population<sup>11</sup>

- Every day about 100 individuals are released from jails throughout King County.<sup>12</sup>
- In 2018, the Department of Corrections (DOC) plans to release about 1500 individuals to King County.<sup>13</sup>
- According to the Count Us In Report, 50% of the unsheltered population in Seattle has criminal justice involvement, which is likely an undercount.<sup>14</sup>
- Approximately half of all individuals incarcerated in King County Jail are believed to be experiencing homelessness.<sup>15</sup>
- The jail population is racially disproportionate: Black individuals only comprise 7% of the King County population, but account for 36% of the King County Jail population; Native Americans only comprise of 1% of the King County population, but account for 2.7% of the King County Jail population.<sup>16</sup>
- In Washington, about 60% of those in jail have mental health treatment needs and approximately the same percent have substance use needs.<sup>17</sup>

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11 See <https://ofm.wa.gov/sites/default/files/public/legacy/sac/pdf/research-11-226a.pdf>.

12 See DAJD’s July 2018 Scorecard, [https://www.kingcounty.gov/~media/courts/detention/documents/KC\\_DAR\\_Scorecard\\_07\\_2018.ashx?la=en](https://www.kingcounty.gov/~media/courts/detention/documents/KC_DAR_Scorecard_07_2018.ashx?la=en).

13 See <http://www.doc.wa.gov/docs/publications/reports/200-RE001.pdf>.

14 See <http://allhomekc.org/king-county-point-in-time-pit-count/>.

15 See King County Jail Health Services, “Estimates of Homeless Individuals Served by Public Health’s Jail Health Services and Health Care for the Homeless Network, January 1st, 2017 – December 31st, 2017” (August 2018).

16 See King County Department of Adult and Juvenile Detention, May 2018, [https://www.kingcounty.gov/~media/courts/detention/documents/KC\\_DAR\\_Monthly\\_Breakouts\\_05\\_2018.ashx?la=en](https://www.kingcounty.gov/~media/courts/detention/documents/KC_DAR_Monthly_Breakouts_05_2018.ashx?la=en).

17 See <https://www.dshs.wa.gov/sites/default/files/SESA/rda/documents/research-11-226a.pdf>.

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## UNFINISHED BUSINESS

The Workgroup believes that implementing all the recommendations in this report would make significant and positive changes in how individuals leaving incarceration are supported, increasing community and family stability, safety, and success. Yet the Workgroup acknowledges that this list of recommendations is not exhaustive and is insufficient to fully address the host of conditions faced by those exiting incarceration. Due to capacity, time, and bodies of expertise, there are areas that the Workgroup would have liked to address but did not. Also, some areas could have been developed further with more time and resources. These include but are not limited to: addressing the increased use of immigration detention and deportation of those individuals living with criminal history, supporting the City in reducing its reliance on cash bail for pretrial confinement, and investing in educational support for those currently incarcerated and upon their release.

### *Families, Education, Preschool and Promise Levy*

While the Workgroup was not able to develop specific recommendations around education, the Workgroup does want the City to invest in educational support for those who have been denied high-quality education opportunities due to incarceration. The Workgroup supports the City's hope to pass the Families, Education, Preschool and Promise Levy in November 2018, which aims to provide education support and increase equitable opportunities in education for communities that have been "historically-underserved."<sup>18</sup> If successful, the Workgroup asks the City to consider allocating some of these funds to invest in educational services for those who have experienced long-term incarceration and were denied appropriate education support.

### *Criminal Legal System Advisory Board*

There is more work to be done in examining and strengthening the City's support for those reentering, thus the Workgroup recommends the City establish an advisory board comprised of individuals with lived experience of the criminal legal system who can continue the work of the Workgroup, further develop a strategic plan, oversee any implementation of these recommendations and advise on criminal legal system policy development.

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<sup>18</sup> See Seattle City Council, Res. 31821, 2018-2019, Section 2 (2018) available at <http://seattle.legistar.com/ViewReport.aspx?M=R&N=Text&GID=393&ID=3126090&GUID=23CA4093-1DCF-4B1C-8160-192CCB3D2F3D&Title=Legislation+Text>.

## PART TWO

### INVENTORIES & COORDINATION

#### INVENTORY 1

#### **An inventory of the City’s current work to help individuals with criminal history transition into stable housing and employment.**

The Workgroup completed this inventory by requesting from the City Budget Office (CBO) and the Human Services Department (HSD) a list of investments the City makes to “help individuals with criminal history transition into stable housing and employment” and specific “reentry investments.” This is not an exhaustive list of all the City investments that reach those living with criminal history. However, these are the investments that are specifically tailored and targeted to exclusively reach these individuals as named by CBO and HSD.<sup>19</sup>

<b>Project Information</b>	<b>2017 Allocation</b>	<b>2018 Allocation</b>
<p><b>Program/Project Name:</b> Career Bridge*</p> <p><b>Agency Funded:</b> Urban League of Metropolitan Seattle (Urban League)</p> <p><b>Fund Source:</b> HSD General Fund</p> <p>Career Bridge serves low-income people of color facing multiple barriers to education, training, and employment including a history of incarceration. Its community ownership model uses a network of grassroots community relationships, with leadership and accountability practices embedded in a structure of community support to help participants move toward living-wage careers and help communities create impact through advocacy at the policy and system level. The project began with a focus on African American men facing barriers including a history of incarceration, which makes</p>	\$819,264	\$835,649

<sup>19</sup> The Workgroup only had access to the list of investments provided in response to the Workgroup’s request to the City Budget Office. There may be other investments that target these individuals.



<p>obtaining employment difficult, and expanded to include other underrepresented communities of color.</p> <p>Career Bridge is based on a cohort model. The formal start of each cohort begins with a five-week, 100-hour job readiness training (JRT) program. During certification/internship week, participants earn the following certifications: flagger, forklift operator, HazMat, First Aid, CPR and OSHA 10-hour Construction or are placed in an unpaid internship related to their career interests. Wrap-around services are integrated into training to address barriers and increase completion and successful job placement.</p> <p>After completion of JRT, additional training/education and job placement assistance is guided by each participant’s plan. Emphasis is placed on identifying jobs with promotional opportunities and, when appropriate, re-placement in higher wage employment with a career path after participants have developed a positive work history. Job retention and follow-up services are provided for a 12-month period.</p>		
<p><b>Program/Project Name:</b> Youth Employment Services*</p> <p><b>Agency Funded:</b> King County Superior Court, Juvenile Probation Department, Community Programs Unit</p> <p><b>Fund Source:</b> HSD General Fund</p> <p>King County Education and Employment Training staff provide youth ages 15 -18, who are court-supervised and approved for school and employment services with comprehensive job readiness training, academic support services, and paid work experience. Academic support services include re-engaging youth and enrolling them in appropriate educational settings and partnering with Seattle Public Schools to coach youth toward suitable educational/vocational programs. Youth gain meaningful work experience, develop job skills and a positive work history, and earn income through placement in group projects or individual internships in a field or occupation related to their interests. Youth also have opportunities to engage in special short-term project events to connect to their communities.</p>	<p>\$87,148</p>	<p>\$88,891</p>

<p><b>Program/Project Name:</b> Get Off the Streets (GOTS)*</p> <p><b>Agency Funded:</b> Seattle Neighborhood Group (SNG)</p> <p><b>Fund Source:</b> HSD General Fund</p> <p>GOTS offers a range of services to help adults who have historically been involved with the criminal justice system and are experiencing mental health challenges, substance use issues, and/or homelessness within Seattle’s East Precinct. Services include help with finding housing, employment, and moving into a clean and sober lifestyle, all of which can decrease recidivism. SNG coordinates GOTS and subcontracts with the People of Color Against AIDS Network (POCAAN) for outreach and case management services. Clients are found through street and community outreach and through referrals from Work Release and Drug Court. Case managers work with clients to create individual service plans (ISP), maintain regular contact with clients to document their progress towards reaching their ISP goals, provide assistance with navigating the social service, court, housing and employment and training and education systems, and monitor compliance with court requirements and any potential criminal activity.</p>	<p>\$347,452</p>	<p>\$354,401</p>
<p><b>Program/Project Name:</b> Communities Uniting Rainier Beach (CURB)*</p> <p><b>Agency Funded:</b> People of Color Against AIDS Network (POCAAN)</p> <p><b>Fund Source:</b> HSD General Fund</p> <p>CURB is an outreach, engagement, and case management strategy that serves young adults ages 18-30 who have a criminal record or are involved with drugs, the sex industry, and gang- or criminal-related activity in Seattle’s southeast neighborhoods, including hot spots in Rainier Beach and Rainier Valley. CURB emphasizes service to young adults of color and immigrant and refugee young adults not accessing other services. CURB staff conduct street outreach and receive referrals from, among other sources, Seattle Drug Court, community-based providers, probation officers, and the DOC. They work with clients to create individual service</p>	<p>\$270,776</p>	<p>\$276,192</p>

<p>plans (ISP), maintain regular contact with clients to document their progress towards reaching their ISP goals, provide assistance with navigating the social service, court, housing and employment and training and education systems, and monitor compliance with court requirements and any potential criminal activity. CURB’s mission is to redirect young adults by assessing needs, stabilizing housing, connecting them to treatment, and helping them to secure living wage employment, all of which could eliminate involvement in criminal activity.</p>		
<p><b>Program/Project Name:</b> Co-STARS (Court Specialized Treatment and Access to Recovery Services) *</p> <p><b>Agency Funded:</b> King County Department of Community and Human Services (DCHS), Behavioral Health and Recovery Division (BHRD), Diversion and Reentry Services (DRS)</p> <p><b>Fund Source:</b> HSD General Fund</p> <p>Through King County Diversion and Reentry Services’ Housing Voucher Program (HVP) and a subcontract with Sound Mental Health (SMH), Co-STARS provided reentry interim housing to individuals who had a current Seattle Municipal Court (SMC) case, needed and were amenable to behavioral health treatment.</p> <p>The Housing Voucher Program was a nine-month reentry interim housing program that provided clients with reentry and recovery services including housing stabilization, most often to clean and sober housing directly from jail. SMH brokered the reentry interim housing and provided individualized housing case management. Program goals for Co-STARS clients included housing and treatment stability; increased life skills; fewer jail bookings; and access to permanent housing.</p> <p>In June 2017, SMH notified King County of their decision to terminate their subcontract for Co-STARS. At the time, SMH was subcontracting with Pioneer Human Services (PHS) for most of the reentry interim housing. PHS continued to provide reentry interim housing to those who were in PHS housing when SMH terminated its agreement in September</p>	<p>\$444,669</p>	<p>\$453,562</p>

<p>2017 and considered, but eventually declined, the opportunity to replace SMH as the King County Co-STARS subcontractor.</p> <p>King County conducted an exhaustive informal process to identify a subcontractor with sufficient capacity to provide reentry interim housing and case management services for Co-STARS clients. Due to a dearth of subsidized/affordable housing, King County was unable to identify a subcontractor and determined that the HVP model was no longer viable. As a result, HSD ended the King County Co-STARS contract effective 6/30/2018.</p>		
<p><b>Program/Project Name:</b> Begin at Home (BAH) – 2017 Plymouth Housing First (PHF) - 2018</p> <p><b>Agency Funded:</b> Plymouth Housing Group (PHG)</p> <p><b>Fund Source:</b> HSD General Fund</p> <p>Plymouth Housing Group provides intensive services to high need individuals living in permanent supportive housing who have been homeless for lengthy and/or repeated incidences and struggle with obstacles including behavioral health and substance use disorders, and acute and chronic medical conditions. Residents pay no more than 30% of their income towards rent and hold a lease with no limits on tenancy if lease terms and conditions are met. The PHG staffing model is based on important elements of Housing First: housing case management to provide stabilizing support, property management to manage building operations, and collaborative work to assist people to remain safe and stable in housing.</p> <p>From 2007 – 2017, Begin at Home provided intensive services for people living in permanent supportive housing at multiple PHG facilities including 20 units at the St. Charles for individuals who were Co-STARS clients with an active/recent Seattle Municipal Court case. Through a competitive funding process conducted in 2017 for 2018 contracts, PHG was awarded funding for Plymouth Housing First that also includes providing intensive services for Co-STARS clients living in permanent supportive housing at the St. Charles.</p>	<p>\$108,420</p>	<p>\$110,588 estimated</p>

<p><b>Program/Project Name:</b> City of Seattle Municipal Court Clinician Services</p> <p><b>Agency Funded:</b> King County Department of Community and Human Services, Behavioral Health and Recovery Division</p> <p><b>Fund Source:</b> Seattle Municipal Court</p> <p>The SMC Clinician Services investment, approximately \$253,580 per biennium, is a Seattle Municipal Court contract with King County’s Behavioral Health and Recovery Division to provide treatment services for individuals charged with misdemeanor offenses in SMC’s Mental Health Court and the Veterans Treatment Court. The treatment services are provided by a full-time clinician who evaluates these specialty court participants to determine treatment needs, identify appropriate resources, make recommendations to specialty court teams, and increase coordination with community providers. Because King County’s subcontractor for these services will terminate this work in September 2018, the current contract will also conclude at the end of September 2018, and Seattle Municipal Court is actively exploring other options to provide these services.</p>	\$126,790	\$126,790
<b>Total</b>	\$2,204,519	2,246,073

\*Funds from these projects are slated for inclusion in HSD’s competitive funding process focused on services for youth, young adults, and adults with criminal history and planned for release in 2019 with new contracts beginning in 2020.

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## INVENTORY 2

### **An inventory of the City’s imposition and collection of legal fees and fines for criminal violations and infractions and the impact of such on successful reentry.**

#### **Inventory of fines and fees**

In 2017, SMC’s Research, Planning and Evaluation Group (RPEG) completed the inventory of the City’s current imposition and collection of fines and fees for criminal violations and infractions, titled “Inventory of Criminal and Infraction Fines and Fees at SMC: A research report in response to City Council Resolution 31637.”<sup>20</sup>

#### **Impact of Fines and Fees on Successful Reentry**

To address the impact of the City’s fines and fees on successful reentry, the Seattle Office for Civil Rights has contracted with Dr. Alexes Harris of the University of Washington to research and report on the impacts of monetary sanctions for criminal adjudications and non-criminal infractions on a person’s ability to achieve successful reentry. It will help shape recommendations on reducing the harm caused by monetary sanctions that impact the ability of individuals to find housing, employment, and refrain from further contact with the criminal justice system.

SMC suspends a large portion of criminal fines and fees and these fines and fees make up only a portion of the total legal debt imposed on individuals by the City. The City collects and attempts to collect millions of dollars each year from those adjudicated by SMC for fines and fees related to parking, traffic, and non-traffic infractions.<sup>21</sup> This imposition of legal debt has a significant impact on individuals, particularly on those who cannot pay. Dr. Harris’s report will illuminate the extent of this impact and help shape how the City can reduce the negative consequences on the most vulnerable communities. Report completion depends on data exchange between SMC and Dr. Harris.

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<sup>20</sup> See Appendix for Executive Summary of inventory.

<sup>21</sup> Seattle Municipal Court Research, Planning, and Evaluation Group, Inventory of Criminal and Infraction Fines and Fees at Seattle Municipal Court, Exec. Summary, August 2017 (on file with author) (“SMC collected \$47 million in revenue associated with court-ordered penalties in 2016. \$43.3 million went to the City of Seattle and \$3.8 million to the State of Washington. Criminal-related legal financial obligations make up less than 1% of all collections revenue recovered. At least 93% of monies collected from legal financial obligations at Seattle Municipal Court originate from infraction tickets.”)

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## COORDINATION

### **Identifying areas for better coordination: Where would the City's efforts be strengthened by more effective coordination with other criminal justice agencies?**

Seattle's criminal legal system processed 9,734 misdemeanor case filings in 2017, resulting in approximately 63,000 nights in jail.<sup>22</sup> This has an enormous impact on the City; it is felt by every community and constitutes a significant portion of the City's budget. Because Seattle's criminal legal system requires involvement of SMC, the City Attorney's Office, the Legislative Department, and the Executive Department, all four independently elected branches should work closely to build a coherent strategy; one that is coordinated and aligned with identifiable values and objectives developed in partnership with communities that have been most impacted by the criminal legal system.

Though coordination is often considered an indicator of an effective criminal legal system, Seattle's Reentry Workgroup supports increased coordination only if this system is driven by a set of values that promote trust and partnership with communities disproportionately represented throughout the criminal legal system. To reach this goal, the Reentry Workgroup supports community engagement by judges, prosecutors, and court staff to strengthen relationships, build accountability, and ensure that the criminal legal system benefits Seattle's most vulnerable residents and visitors.

#### How better coordination is developed:

- **Developing goals:** The first step in achieving better coordination should include an opportunity to allow those most impacted by racism and incarceration to share their own definition of safety and accountability to help inform the objectives that drive Seattle's criminal legal system.
- **Developing partners:** While the City of Seattle must develop formalized communication pathways between departments and across jurisdictions, the first priority must be to develop paths and partnerships with communities most impacted by racism and incarceration.
- **Developing pathways:** Create sustainable opportunities for formerly incarcerated people to obtain city jobs where they are in positions to help shape and inform Seattle's criminal legal system.

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<sup>22</sup> See Criminal Case Filings, <http://www.seattle.gov/courts/about/data-and-publications/general-data-reports/criminal-case-filings> (last visited Aug. 31, 2018).

## The benefits of increased coordination may include:

- **Dedicated paths** for communities most impacted by racism and incarceration to inform criminal legal policies and reforms.
- **Development of a non-criminalization approach** to violence, substance use, mental health needs, trauma, and poverty.
- **Development of more efficient communications** with other jurisdictions that would increase person-centered and restorative responses such as warrant quashing, alternatives to incarceration, and better tools to connect individuals with services they need to address root causes.
- **A framework** to redistribute resources from law enforcement, courts, and incarceration to community-based services that support those most impacted by racism and incarceration.
- **Increased alignment** with other City initiatives and strategies that aim for healthy and accountable relationships with communities most impacted by racism and incarceration including the Zero Use of Youth Detention Resolution and its Criminal Justice Equity Team, Our Best: Seattle’s Commitment to Young Black Men, the Youth Opportunity Initiative, and the Equitable Development Initiative.<sup>23</sup>
- **A means to measure progress and outcomes** and to hold systems accountable to benchmarks.
- **By prioritizing City representation on state and regional workgroups** aimed at criminal justice reform and reentry support the City can:
  - Develop collaborative partnerships to strengthen coordination and amplify resources
  - Share innovations and solutions
  - Integrate systems
  - Share responsibility and increase accountability.

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<sup>23</sup> See Seattle City Council, Res. 31614, 2014-2015 (2015) available at <https://seattle.legistar.com/LegislationDetail.aspx?ID=2458519&GUID=93E5F1D7-42A7-4899-BB78-03150F043416&Options=&Search=>; Mayor’s Youth Opportunity Initiative, <http://www.seattle.gov/youth-opportunity> (last visited Aug. 31, 2018); Equitable Development Initiative, <http://www.seattle.gov/opcd/ongoing-initiatives/equitable-development-initiative> (Last visited Aug. 31, 2018).



## PART THREE

# STRATEGIES AND RECOMMENDATIONS

**In this section the Workgroup provides seven strategies that include: (1) Centering and supporting Indigenous community members; (2) Reentry Navigation, Healing, and Support; (3) Increasing Access to Economic Opportunity; (4) Increasing Access to Housing; (5) Reimagining City Jail Contracts; (6) Decriminalization; and (7) Next Phase of the Work.**

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### STRATEGY 1

## INDIGENOUS COMMUNITY HEALING

**Make investments that center and support reentering Indigenous community members<sup>24</sup>**

*“Many of the incarcerated have no sense of purpose or hope when they are released from prison. Yet they often are seeking a return to their culture. Studies have shown that when prisoners are reunited with their culture they gain a sense of belonging, of community and spiritual rebirth that lowers the rates of recidivism. It is vital for the City and County to sponsor a cultural welcoming home ceremony for men and women who are returning from incarceration that includes our traditions, so that our people feel a part of something and their soul begins the rebuilding process that is so necessary after prison.”* Pamela Stearns, a member of the Tlingit tribe (Alaska Native), Co-Chair of the Tlingit and Haida Violence Against Women Task Force.

**The problem:** Nationally, Indigenous individuals are incarcerated at a rate that is 38% higher than the average rate of incarceration.<sup>25</sup> Indigenous people are more likely to be killed by law

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<sup>24</sup> The Workgroup has chosen to use “Indigenous” to include individuals who may also be called “first peoples,” “aboriginal peoples,” “native peoples” or Native Americans, and those who are from the land and whose ancestors were present before colonization. The Workgroup chose Indigenous as it is inclusive, describes a broader group, and covers many peoples and ways.

<sup>25</sup> See Lawrence A. Greenfield and Steven K. Smith, U.S. Dep’t of Justice, Office of Justice Programs, Bureau of Justice Statistics, American Indians and Crime, P. viii (Feb. 1999), available at <https://bjs.gov/content/pub/pdf/aic.pdf>.

enforcement than any other racial group.<sup>26</sup> In Seattle, American Indian and Alaska Natives are seven times more likely to experience homelessness -- more than any other racial group -- and are disproportionately represented in the City's criminal legal system. Yet in most institutionally convened conversations regarding race and the criminal legal system, the experience of the Indigenous community is erased. While "virtually all Native people have either been or have had a close family member incarcerated", the City has failed to include these voices into decision-making processes regarding reentry and reform.<sup>27</sup> The growing disproportionality of the Indigenous population in our prisons and jails cannot be ignored and the City bears responsibility to address this with targeted and culturally responsive strategies.

The Workgroup hopes to underscore the City's obligation to and consistent erasure of the Indigenous community by creating a separate recommendation targeted to this community. The Workgroup also knows that all individuals returning from incarceration would benefit from similar recommendations that focus on healing and strengthening community connection.

*"Many of the men and women who go to prison have never really done anything 'Indian' before, such as singing or dancing. But those types of things can be necessary for people to grow their identity and get grounded in their culture. Drumming and singing are given alongside values and principles. The indigenous community shares an oral tradition and it is through singing, dancing, drumming that this oral tradition gets passed on, and that folks are weaved into their community. When a person feels like they belong to their community, they are stronger and healthier and supported."* George Farrell, a Reentry Workgroup member, member of the Standing Rock Lakota tribe.

**Background:** As an outreach worker with the Chief Seattle Club, George Farrell witnesses the challenges faced by Indigenous individuals living unhoused on Seattle streets. Many are also burdened by criminal history, which is both caused by and further exacerbates the wounds of historical trauma. Yet there are limited supports available to help lift individuals out of poverty and to address the healing made necessary by centuries of institutional harm and genocide.

### **Healing and belonging must come first:**

"If someone enters prison when they are a youth or young adult and leaves prison decades later, there is significant work that needs to be done to help shape a healthy identity, foster a sense of belonging, and develop a connection to a supportive community," George explains,

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<sup>26</sup> See Mike Males, Center on Juvenile and Criminal Justice, Who Are Police Killing? (Aug. 26, 2014), <http://www.cjci.org/news/8113>.

<sup>27</sup> Walter Echo-Hawk, Native Worship in American Prisons, 19-4 Cultural Survival Quarterly Magazine (Dec. 1995), available at <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/native-worship-american-prisons>.

sharing his own experience leaving prison after long-term incarceration. Currently, there are not many services in Seattle that provide this, and the City should invest in developing organizations that can do this work.<sup>28</sup>

The Workgroup's recommendation to prioritize this type of investment comes from an acknowledgment that "reentry work" must first address the harms caused by incarceration itself and that connection to community and supporting an individual's sense of belonging is necessary for healthy integration when returning from prison.

The Workgroup members agree that for all individuals returning from incarceration, being part of a strong connected community provides accountability and supports self-determination. It is more valuable than a job, a house, or education. While those other things are certainly necessary for stability, they are insufficient to allow for full integration and health. Without a connection to community and the tools to grow one's identity, what is the purpose of a job? An education? And why keep a house?

### **By culturally responsive practitioners:**

For it to be effective, this work must be done by those who relate (culturally, with community anchors, and with direct experience) to the individual's community and share a deep understanding of how incarceration impacts an individual and sense of self upon release.

*"Focusing on women, we know that our women are resilient and are survivors. They need to be seen and honored. The City needs to value their resiliency, their strength and needs to provide support that will actually meet their needs. It needs to be culturally relevant and provided by folks who understand what they've been through. Currently, their access to tools that will help grow their identity and support a sense of belonging is scarce. The City and County should invest in these tools."* Pamela Stearns, a member of the Tlingit tribe (Alaska Native), Co-Chair of the Tlingit and Haida Violence Against Women Task Force.

### **Lack of access to religious and spiritual freedom during incarceration exacerbates harm:**

The City should evaluate whether the jails the City contracts with sufficiently protect and support the religious freedom rights of all individuals, including those who are Indigenous. The American Indian Religious Freedom Act (AIRFA), a federal law passed to protect and preserve the traditional religious rights and cultural practices includes the freedom to worship in

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<sup>28</sup> To learn about an organization outside of Seattle that provides this kind of reentry support, see the Port Gamble S'Klallam Re-Entry Program, <http://www.tribaljustice.org/program-profiles/re-entry-program>.

prison.<sup>29</sup> While prisons often claim access to certain classes or spiritual spaces, the reality for those who are inside may be quite different. Access may be inconsistent or depend on criteria that are hard to meet. Many Indigenous people have been denied their full rights under AIRFA during incarceration. Pamela Stearns who also experienced incarceration in Washington state prisons shares that many institutional barriers exist preventing Indigenous women from accessing religious practices that are necessary for health and survival.

*"The benefits lead to solutions that better our social, economic, and political realities and actions. When one is strong in cultural identity, the less likely we fall prey to the disease of addiction and all of its negative consequences, such as the justice system. Many of our youth know they are Native, but do not even know what that means, why they are angry and lost or how they ended up in the 'system'. To create change, it is crucial that change must occur from within. Learning our Native way of life is based on respect, resiliency and spirituality and key for creating change."* Pamela Stearns, a member of the Tlingit tribe (Alaska Native) Co-Chair of the Tlingit and Haida Violence Against Women Task Force.

**Recommendations:** The Workgroup prioritizes the recommendation aimed at strengthening support for the reentering Indigenous community and asks that the City not wait to invest in this strategy. There is a dire need, the government has an acute responsibility to repair harm caused by genocide, and there is a lack of culturally relevant resources provided to this community. We ask that the City set aside funding for pilot programs aimed at supporting those Indigenous individuals returning from incarceration and living with criminal history. The City could make a significant positive impact by investing in this work in the following ways:

- **Support Indigenous people who are returning from incarceration** -- prison or jail – by investing in strategies that provide access to culturally responsive healing practices and Indigenous mentors with lived experience.
- **Elevate Indigenous voices in efforts focused on criminal legal system policy and reform.**<sup>30</sup>
- **Contract solely with jails that provide access to religious and spiritual services.**<sup>31</sup>

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<sup>29</sup> See [http://www.nativehistoryassociation.org/preservation\\_airfa.php](http://www.nativehistoryassociation.org/preservation_airfa.php).

<sup>30</sup> If there were more Indigenous individuals with lived prison experience employed by the City in leadership positions, they would be able to access seats at tables with the DOC, the County, and other institutions to ensure accountability and culturally responsive progress.

<sup>31</sup> The Workgroup has reviewed DAJD policies regarding access to spiritual and religious services and practices. These policies appear to exclusively address dietary restrictions, clothing, and limited access to religious service providers "who are affiliated with a formal religious organization and be approved by that organization's local authority to serve within the department." See King County Department of Adult and Juvenile Detention, Adult Divisions, General Policy Manual, Policy 8.04.001 Religious Practices (Effective May 2017). Though county jails may not be required to implement AIRFA, the City should recognize the importance in allowing access to religious practice for all individuals

- **Ensure that all homeless prevention, anti-poverty, or reentry investment strategies include targeted supports for the Indigenous community, developed with leadership by those who have experience with incarceration and are from the community the investments intend to support.** These investments must target those organizations and individuals who have demonstrated a successful history in supporting this community, and/or if possible, are owned and led by Indigenous persons. City contracts must allow outcomes that are determined by community needs and individual goals and not be driven by job, education, housing placement, or recidivism rates.

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who are incarcerated and work with the County to adhere to AIRFA in its jails. If there are currently no policies in place that allow access to religious practices, the City should contract with personnel who have lived experience of incarceration and are tribal members to identify and ensure proper processes for having religious items and services.

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## STRATEGY 2

### REENTRY NAVIGATION, HEALING, AND SUPPORT

**Support development and growth of community-rooted programs and networks owned and/or led by formerly incarcerated individuals to guide successful reentry.**

**The problem:** Individuals leaving incarceration lack appropriate support to help them overcome the trauma of incarceration while navigating the obstacles and burdens of life post-incarceration. Many services that are currently offered are surveillance-based, provided by individuals who lack cultural competency, and by organizations beholden to institutions that maintain harmful criminal legal system practices.

Reentry is a process, not a singular event. Successful reentry relies on multiple factors such as access to housing, education, and employment, but also on significant structural changes. It is well documented that those on the road out of incarceration are most successful when they are mentored and supported by “people like them doing the work alongside them.”<sup>32</sup> Further, those who have been through the experience of incarceration and have a systems analysis are the best equipped to understand the reentry process and develop the most effective solutions.

As explained in the Indigenous Healing strategy above, individuals returning from incarceration must first address the trauma caused by incarceration itself and begin the healing process before other kinds of services can be successful. This requires reentry support that is culturally responsive, trauma-informed, and may rely on practices that have not always been favored and evaluated by institutions to be qualified as “evidence-based.” Instead, effective support may be rooted in spiritual, indigenous, or ancestral practices that help the individual develop connection to community, culture, and help build a healthy identity.

**Background:** Reentry planning provided by the King County jail is limited to high priority individuals who require significant care, is short-term, and does not follow the individual after their release. Post-incarceration reentry services that do exist are fragmented, siloed, and difficult to navigate.

Most of the institutionally funded “reentry” work is done by organizations which are owned and operated by individuals who have not been incarcerated. Meanwhile, communities that are

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<sup>32</sup> Dr. Alexes Harris, *Constructing Clean Dreams: Accounts, Future Selves, and Social and Structural Support as Desistance Work*. University of Washington (2011).

directly impacted by incarceration have been doing informal, uncompensated reentry navigation for decades as a way to heal the destruction to their communities. Many individuals who are formerly incarcerated have taken on informal mentor roles to support others returning home. These mentors should be paid for filling an important systemic gap. However, many individuals living with criminal history lack the access to institutional power and face discrimination or do not possess the financial capacity or network to build a business on their own.

Services that are often needed upon reentry (identified by community members attending the Workgroup's Report Back event) include:

- Support navigating housing challenges and legal debt
- Supplemental legal support
- Parental Advocacy
- Relationship restoration
- Administrative support
- Engagement with persons well before release for preparation & process
- Ensuring people know about culturally responsive organizations, workshops, events, etc.
- Partnership with the Library
- Education on new terminology (e.g., gender pronouns)

## Recommendations:

- **Fund community-rooted “Reentry Navigators” who can provide anti-racist support and navigation services for those currently incarcerated as well as those returning from incarceration via trauma informed and culturally responsive practices.**

Navigators would prepare those currently incarcerated across the state who intend to return to Seattle, including those confined by the DOC, the Federal Bureau of Prisons, or county jails.

Navigation would include guidance to access housing, employment, healthcare, or education while supporting healing and identity restoration. Ideally, the Reentry Navigators would also be positioned to leverage their systems knowledge to hold institutions accountable for structural change. It is critical that funding for this service is allocated to community-owned programs with anti-racist principles who are accountable to community and not only to institutions. These community-owned programs should be primarily owned, led by, and employ individuals with lived experience with incarceration. This strategy should include funding and assistance for formerly incarcerated individuals to seed and build organizations that will provide reentry support.

- **Reconsider contracts that require elevated surveillance by agency staff.** City funds should focus on increasing a person’s confidence in their own personal autonomy and ability to succeed rather than assuming continued criminality and requiring constant supervision by law enforcement, probationary agencies, or even non-profit agencies. If continued system involvement (i.e., reporting/checking in with a precinct) is a part of a programs matrix, it should be up to the participant to opt in with the ability of opting out without consequence. Instead of investing in people’s failures, the City should ask “how do we invest in people’s success?”
- **Reconsider using recidivism as an outcome measurement.** While convenient and widely used, there is a long-standing concern among researchers and practitioners about the validity, reliability and functionality of using recidivism as an outcome measure for reentry services.<sup>33</sup> Recidivism, as a derivative of incarceration, takes place in the same context of racialized and class-based policing as the initial arrest. Whether a person is re-arrested has much less to do with a program’s ability and more to do with whether the person was under increased surveillance or whether the person’s needs were met (beyond that which the program could provide). An individual’s success post-incarceration should be based on their ability, along with that of their team and the City, to achieve the goals they set for themselves.

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33 Blumstein, A. & Larson, R. C., Problems in modeling and measuring recidivism. *Journal of Research in Crime and Delinquency*, 8(2), 124-132 (1971).



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## STRATEGY 3

### ECONOMIC OPPORTUNITIES

#### Invest in and Support Economic Opportunities for Individuals Living with Criminal History.

**The problem:** The current reentry framework prioritizes the immediate return to employment. Nationally, the unemployment rate for formerly incarcerated people is almost five times higher than the unemployment rate for the general population.<sup>34</sup> Additionally, “for those who are Black or [Latinx] – especially women – status as ‘formerly incarcerated’ reduces their employment chances even more.”<sup>35</sup> However, we know that there are still many barriers that prevent meaningful economic opportunity for individuals living with criminal history.

The Workgroup differentiates between “economic opportunity” and “employment.” For too many formerly incarcerated workers, only survival jobs are available. These include low wage employment options such as short-term manual labor or gig employment. Many of these employment options lack medical and retirement benefits, union protection or meaningful career mobility. These positions keep workers in poverty and prevent individuals from meeting their legal financial obligations and other debt related to their criminal history.

“Survival work, [is] pursued out of financial necessity and a lack of credentials and job training...For many it is a harm reduction strategy...to meet immediate needs even though it does not offer a sustainable long-term sense of belonging and fulfillment.”<sup>36</sup>

Economic opportunity, in contrast, helps to establish long-term wealth and self-determination that can sustainably support families, rebuild communities, and helps nurture a healthy identity.

**Background:** Over the last eight years, the City has taken steps to assist individuals with conviction records gain access to employment opportunities. In 2009, the City created an

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34 Lucius Couloute and Daniel Kopf, Prison Policy Initiative, Out of Prison and Out of Work: Unemployment among formerly incarcerated people, (July 2018) available at <https://www.prisonpolicy.org/reports/outofwork.html>.

35 Id.

36 JM Wong. The meaning and experience of work for Formerly Incarcerated Asian Pacific Islander individuals. University of Washington (2018).

internal hiring policy ensuring that background checks would only apply to City jobs with specific requirements such as those involving access to personal data, positions working with children, and others. This was followed by the passage of the Job Assistance ordinance, renamed the Fair Chance Employment ordinance (FCE) in 2016. This ordinance was driven and led by communities most impacted by incarceration. FCE restricts how employers can use conviction and arrest records during the hiring process and course of employment within City limits.<sup>37</sup>

Priority Hire, the City's 2015 ordinance requiring the City's Purchasing and Contracting Services (CPCS) to develop strategies for construction employment opportunities for workers of color, has seen marginal success at increasing the meaningful entry of Black, Latinx, Indigenous and other workers of color into apprenticeship programs. These gains have not translated into journey-level union positions.<sup>38</sup> In addition, Priority Hire's 2016 annual report indicates that many individuals seeking access to Priority Hire jobs are hindered by the revocation of their driver's licenses for prior tickets. Driver's licensing is frequently a minimum or desired qualification for most jobs, particularly those in construction and the trades. In 2017 and 2018, Priority Hire focused its efforts on re-licensing construction apprentices with the support of community organizations that serve workers interested in entering and staying in construction. "Through 2017, 80 residents of economically distressed ZIP codes, women and people of color obtained a driver's license through CPCS's investment and nearly half were African-Americans."<sup>39</sup>

Though Resolution 31637 highlights the benefits of Certificates of Restoration of Opportunity (CROP), certificates that allow those with criminal history to regain access to certain occupational licenses via a judicial process, the Workgroup does not believe that CROP provides a real and equitable pathway to economic opportunity.<sup>40</sup> In order to access CROP, individuals must be in compliance with or have completed all sentencing requirements imposed by a court including paying off their legal debt. For most individuals leaving prison,

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37 See Fair Chance Employment Ordinance, <http://www.seattle.gov/laborstandards/ordinances/fair-chance-employment> (last visited Aug. 31, 2018).

38 Journey-level experience applies to a person who has completed an apprenticeship program or is an experienced worker, not a trainee, and is fully qualified and able to perform a specific trade without supervision. See Dep't of Finance & Administrative Services, City Purchasing and Contracting Services, 2016 Priority Hire Annual Report (2016), available at <https://www.seattle.gov/Documents/Departments/FAS/PurchasingAndContracting/Labor/Priority-Hire-Report-2016.pdf>.

39 See Dep't of Finance & Administrative Services, City Purchasing and Contracting Services, 2017 Priority Hire Annual Report (2017), available at <https://www.seattle.gov/Documents/Departments/FAS/PurchasingAndContracting/Labor/Priority-Hire-Report-2017.pdf>.

40 See Press Release, Columbia Legal Services, House Bill Proposes to Reduce Barriers to Work for People with Former Criminal Justice Involvement (Jan. 21, 2015), available at <http://columbialegal.org/Bill-Reduces-Barriers-to-Work>.

this may never be possible.<sup>41</sup> Whether someone should have access to an occupational license should not be determined by their financial ability, especially when their income and economic opportunities were limited by incarceration.

While the City has made important advancements to increase hiring for Black and Brown workers and reduce the impact of bias against those with criminal histories, barriers remain. As a City, we need to do more to ensure individuals living with criminal history can successfully obtain family-wage jobs and professional careers that foster community stability, growth, and support an individual's path toward self-determination.

**Recommendation:** The City should invest in meaningful economic opportunities and pathways out of poverty for those living with criminal histories including targeted support for business development and customized recruitment for all City employment, including professional mid- and high-level positions.

### **Specific actions include:**

- **Small Business Support:** Office of Economic Development's (OED) Small Business Development Team could work in partnership with those who have direct lived experience with incarceration to target and support business innovations and development led and owned by formerly incarcerated individuals. This support may include: identifying and facilitating connections with business consultants, technical assistance to secure financing and navigating regulations, and grants for seed money to establish new businesses.
- **Increasing City TechHire Opportunities:** Seattle Department of Human Resources (SDHR) and Seattle Information Technology (SIT) could develop pathways to hire employees and interns living with criminal history that have completed tech training from OED's TechHire partners (Unloop, Floodgate, Ada Developers Academy, and other partners).<sup>42</sup>
- **City Contracting:** Explore ways to incentivize awarding formerly incarcerated individuals and/or their businesses for relevant City Requests for Proposals (RFP) or Requests for Qualification (RFQ) processes, and City public works projects.

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<sup>41</sup> RCW 9.97 et seq. (2018).

<sup>42</sup> See TechHire, <http://www.seattle.gov/economicdevelopment/about-us/our-work/workforce-development/techhire> (last visited Aug. 31, 2018).

- **City Employment:** SDHR and OED’s Workforce Equity Interdepartmental Team should explore ways the City can make a commitment to employing people living with criminal history.<sup>43</sup>
  - **City Recruitment:** SDHR should work with the Department of Correction (DOC) to support active recruitment of individuals exiting DOC facilities.
  - **Priority Hire Tracking and Accountability:** FAS should track and report what percentage of jobs are going to Priority Hire workers who are moving directly from incarceration into pre-apprenticeship or journey-level work; and track if they are being hired for city public works project
  - **Additional supports:** Finance and Administrative Services (FAS) should explore how the City can provide case management support to ensure that experienced workers living with criminal history who may also have revoked licenses can access union construction jobs and work on City projects.<sup>44</sup>
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43 See Career Pathways Initiative, <http://www.seattle.gov/economicdevelopment/about-us/our-work/workforce-development/career-pathways-initiatives> (last visited Aug. 31, 2018).

44 While the Reentry Workgroup understands that the City Attorney’s Office is working to expand driver’s license assistance to those who would be charged with certain driving offenses, this support should be expanded.

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## STRATEGY 4

### INCREASING ACCESS TO HOUSING

**Make dedicated and diverse housing investments for people living with criminal history that are proportionate to current investments the City makes in contracted jail services, recognizing that incarceration is a significant risk factor for homelessness after release.**

**The problem:** In 2017, almost half of the individuals exiting the King County jail were homeless when they entered.<sup>45</sup> Without strategic, targeted, and significant investment, most will likely remain involved with the local homelessness services system for the long-term. Approximately half of King County’s homeless population have had criminal legal system involvement.<sup>46</sup> A recent report published by Prison Policy on the nexus between homelessness incarceration states that “formerly incarcerated people are almost 10 times more likely to be homeless than the general public.”<sup>47</sup> This is expected. “[I]ncarceration and homelessness are mutual risk factors for each other.”<sup>48</sup> Incarceration itself increases the likelihood of housing instability and homelessness.<sup>49</sup>

Once released, those living with criminal history face significant barriers when accessing safe and stable housing including stigma, income insecurity, and restrictive housing policies, particularly those of public housing authorities that bar individuals with certain convictions from housing. These barriers can cause even brief periods of incarceration to yield disproportionate housing instability and risk of homelessness. This is exacerbated by the City’s housing shortage and homelessness crisis.

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45 King County Jail Health Services, Estimates of Homeless Individuals Served by Public Health’s Jail Health Services and Health Care for the Homeless Network, January 1st, 2017 – December 31st, 2017 (August 2018).

46 See All Home, Seattle/King County Point-In-Time Count of Persons Experiencing Homelessness (2018), available at <http://allhomekc.org/wp-content/uploads/2018/05/FINALDRAFT-COUNTUSIN2018REPORT-5.25.18.pdf>.

47 Lucius Couloute, Prison Policy Initiative, Nowhere to Go: Homelessness among formerly incarcerated people (August 2018), available at <https://www.prisonpolicy.org/reports/housing.html>.

48 Sarah Knopf-Amelung, National Health Care for the Homeless Council, Incarceration & Homelessness: A Revolving Door of Risk. In Focus: A Quarterly Research Review of the National HCH Council, 2:2 (November 2013), available at [https://www.nhchc.org/wp-content/uploads/2011/09/infocus\\_incarceration\\_nov2013.pdf](https://www.nhchc.org/wp-content/uploads/2011/09/infocus_incarceration_nov2013.pdf).

49 Id.

Certain communities fare worse than others. Nationally, the rates of homelessness are higher among people who have been incarcerated more than once, those recently released from prison, people of color, and women.<sup>50</sup> Data shows that formerly incarcerated Black and Indigenous women are more likely to be homeless than any other population.<sup>51</sup>

The Fair Chance Housing ordinance (FCH) limits landlords from using criminal history to make rental decisions. The ordinance is a necessary measure to reduce barriers faced by those living with criminal history, but it is insufficient to address this problem. It cannot mitigate the root causes of homelessness for those burdened with criminal records. FCH does not create more housing and it does not make housing more affordable. Further, federally assisted housing providers subject to federal regulations, which also happen to provide housing to some of the poorest City residents, still may screen tenants for criminal history.<sup>52</sup>

Realizing Seattle’s stated goals of “reducing recidivism” and “prioritizing a public safety strategy” that supports an individual’s “successful reintegration into society” will require commitment to dedicated housing investments specifically for individuals with criminal history.<sup>53</sup> When individuals living with criminal history and returning from incarceration are able to secure appropriate housing, their chance for success dramatically increases.<sup>54</sup>

The City currently spends approximately \$20 million dollars a year on incarceration, which is known to significantly increase the risk of housing instability and homelessness. In all cases prosecuted by the City, the defendant is accused of a misdemeanor, which are crimes that are, by definition, less severe and many are largely attributable to poverty. The City should examine its investment in incarceration in relationship to its commitment to ending homelessness and increasing community safety and stability. Is the City’s investment in jails consistent with its urgent goal of ending homelessness or is this investment moving the City further from its goal?

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50 Lucius Couloute, Prison Policy Initiative, *Nowhere to Go: Homelessness among formerly incarcerated people*, (August 2018), available at <https://www.prisonpolicy.org/reports/housing.html>. (“Black women experienced the highest rate of sheltered homelessness [those in a homeless shelter]—nearly four times the rate of white men, and twice as high as the rate of Black men...Black women, in particular, have been excluded from the social resources necessary to succeed after incarceration.”).

51 Id.

52 See Fair Chance Housing, <https://www.seattle.gov/civilrights/civil-rights/fair-housing/fair-chance-housing> (last visited Aug. 31, 2018).

53 See Seattle City Council, Res. 31637, 2014-2015 (2015), available at <https://seattle.legistar.com/ViewReport.aspx?M=R&N=Text&GID=393&ID=2342886&GUID=D13A419C-953D-4404-B4A2-72FF8DCE6BEC&Title=Legislation+Text>.

54 See Merf Ehman and Anna Reosti, *Tenant Screening in an Era of Mass Incarceration: A Criminal Record is no Crystal Ball* (March 3, 2015), available at [http://roominate.com/blogg/fair\\_chance\\_housing/crystal\\_ball.pdf](http://roominate.com/blogg/fair_chance_housing/crystal_ball.pdf).

**Background:** In 2011, the City held a stakeholder engagement process and created the Housing Affordability and Livability Agenda (HALA). Community feedback reaffirmed the issues faced by those living with criminal history seeking housing.<sup>55</sup> While there are current systemic efforts to reduce landlord screening criteria and to identify and support landlords who would rent to persons experiencing barriers to housing, the Workgroup believes that increasing access to housing for persons living with criminal history will require efforts that are designed and targeted to address the specific circumstances these communities face.

In addition to discrimination and other related challenges that arise when an individual is searching for housing, structural barriers also exist to prevent those exiting incarceration from accessing housing support. For example, the current Housing and Urban Development (HUD) definition of “homeless” severely restricts those exiting from incarceration from receiving homelessness assistance with federal subsidies as it does not apply to individuals who have been incarcerated for longer than 90 days and who were housed immediately prior to incarceration.<sup>56</sup> Because many rely on federal assistance, regional homelessness prevention efforts and homelessness-ending resources are unable to prioritize support for these individuals exiting incarceration and living with criminal history.

Individuals released from DOC who meet certain requirements may be eligible for housing vouchers, but these rarely cover the full cost of housing, are for limited periods, and are subject to funding availability.<sup>57</sup> DOC states that this “is not a program to combat homelessness.”<sup>58</sup> Persons living with criminal history often experience particular and specific difficulties securing and maintaining housing, therefore, more significant or substantial interventions is warranted.

The current regional mechanism for an unhoused individual to access housing is through the Coordinated Entry for All intake system. Coordinated Entry for All (CEA) helps people experiencing homelessness in King County find stable housing by identifying, evaluating, and connecting them to housing support services and housing resources. CEA uses a standardized Housing Triage Tool that matches the right level of services and housing resources to the

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55 See Seattle Housing Affordability: Key Background Data, <http://murray.seattle.gov/housing/seattle-housing-data/> (last visited Aug. 31, 2018) (Highest Impact Recommendations #6 More supports for communities: support vulnerable tenants and increase access to housing for people with past criminal records: Fair Chance Housing – “develop legislation that ensures fair access to housing for people with criminal records.”).

56 National Alliance to End Homelessness, Changes in the HUD definition of “Homeless” (2012), available at <http://endhomelessness.org/wp-content/uploads/2012/01/changes-in-hud-definition-homeless.pdf>.

57 DOC Transition Resources for Offenders, DOC Policy 350.210, <http://www.doc.wa.gov/information/policies/default.aspx> (search for Policy Number 350.210).

58 Id.

persons facing a housing crisis.<sup>59</sup> However, it is the Workgroup’s understanding that criminal history does not elevate an individual’s status to secure housing more than any other vulnerability factor, and further, if an individual is exiting from long-term incarceration into homelessness (and was not homeless when they entered prison), they may not even be eligible for CEA services.<sup>60</sup>

The region’s Continuum of Care guides City investments in housing for persons experiencing homelessness, however, it does not currently prioritize formerly incarcerated persons specifically. The City should consider investing in a separate, focused strategy to address homelessness and housing insecurity for those who are formerly incarcerated due to the unique positionality of this population.

Those currently experiencing homelessness who are living with criminal history are truly some of the “hardest to house,” and the City must make targeted investments to support this population if the City wants to support successful reentry and reach the goals of Resolution 31637. If the City hopes to address long-term community safety and increase community stability, it is much more effective to invest in houses than in jail beds. The City should begin by realigning investments to ensure that the City is not spending money on jail beds only to have to later also pay for the consequences of incarceration.

**Recommendation:** The City must target and set aside housing investments to ensure diverse housing is available to those with criminal history, including housing that is permanent, supportive, and family centered. The City must develop pathways to stable housing explicitly for Seattle residents exiting incarceration, whether from jails or prisons. Similar models include housing specifically designed for people exiting incarceration (such as Pioneer Human Services’ Belmont Apartments, which received OH funding in 2017), dedicated reentry units in permanent supportive housing for individuals who need ongoing services, time-limited rent subsidies, and supportive services connected to affordable housing to enable individuals to transition to community supports and employment.

To derive an investment amount, the City must examine and divest from systems that are empirically known contributors to homelessness, the criminal legal system and incarceration.

To the extent that a large percentage of persons leaving incarceration will predictably exit directly into homelessness, the City has an opportunity to tailor an investment in housing for people exiting incarceration that is proportionate to its current investment in incarceration

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59 Coordinated Entry for All, <https://www.kingcounty.gov/depts/community-human-services/housing/services/homeless-housing/coordinated-entry.aspx> (last visited Aug. 31, 2018).

60 Coordinated Entry for All (CEA) Frequently Asked Questions, <https://www.kingcounty.gov/depts/community-human-services/housing/services/homeless-housing/coordinated-entry/faqs.aspx> (last visited Aug. 31, 2018).



itself. Such an investment would serve to both improve reentry outcomes for persons leaving incarceration and reduce inflow into already over-subscribed homeless housing programs that are federally funded.

### **Specific actions include:**

- **Match housing investments for those currently involved with the criminal justice system to the City's current jail expenditure.** The City must shift its investments from high-cost systems such as the jail to services that stabilize these populations in the community. Ensuring that the City isn't spending more on incarceration than providing housing assistance is a critical reinvestment strategy shift.
- **Dedicate a portion of the City's investments to end homelessness to individuals living with criminal history.**
- **Whenever possible, redefine "homelessness" for non-HUD funded projects.** At all times possible, the City should rely on a homeless definition that is inclusive and specifically includes those exiting long-term incarceration.
- **Encourage HSD, OH and King County Housing and Community Development to develop housing models that support those living with criminal history and the hardest to house.** Link resources and leverage other fund sources to allow housing programs to target individuals who may not meet the homeless definitions and/or criminal history restrictions.
- **Develop technical assistance programs to enable those living with criminal history to be mortgage-ready.**
- **Examine the feasibility of developing City master leasing options from private landlords with a goal of increasing housing for individuals living with criminal history and/or exiting from incarceration.**
- **Create a mechanism to provide rent assistance to individuals currently being incarcerated by the City's criminal legal system.**
- **Work with public housing providers to ensure compliance with the Fair Chance Housing ordinance and urge them to limit use of criminal history when screening tenants to only that which is clearly required by federal law.**

- **Leverage the Regional Affordable Housing Taskforce:** City representation on the Regional Affordable Housing Taskforce should be directed to raise awareness of this population in collaboration and coordination efforts including working with Coordinated Entry for All redevelopment so that criminal history itself increases prioritization.<sup>61</sup>

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<sup>61</sup> Regional Affordable Housing Task Force, <https://www.kingcounty.gov/initiatives/affordablehousing.aspx> (last visited Aug. 31, 2018).

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## STRATEGY 5

### REIMAGINE THE CITY'S USE OF JAILS

**Reduce the use of jail for misdemeanants except where incarceration is specifically required by law; review and update jail contracts to reflect aspirations of the City's commitment to end homelessness, the Reentry Resolution, the Zero Use of Youth Detention Resolution, and the principles of the Reentry Workgroup.**

*"In three days, a person's life can be totally uprooted. If you are in jail three days, that's enough time for life to be broken. From loss of income, three days of not showing up to work is a lost job, with any job. It can cause issues with CPS if no one can pick up your kids. It can be the catalyst for homelessness. My god, even just three days. It can increase financial burdens from late fees, if bills or rent aren't paid on time. It can cause a loss of food. Just in three days. A life can be ruined. A mother doesn't show up to pick up her kids... it's the smallest things could have a devastating impact."*

Liletha Williams, Reentry Workgroup Member speaking to the impacts of short-term jail.<sup>62</sup>

**The problem:** The City currently spends approximately \$20 million dollars each year to incarcerate misdemeanor defendants through contracts with King County and Snohomish County.<sup>63</sup> These contracts include bed spaces for individuals both pre-trial and post-sentencing. Given what we know about the impacts of incarceration and housing, this investment conflicts with the City's commitment to end homelessness.<sup>64</sup> Ninety percent of the individuals who are adjudicated by SMC are living in poverty, and it is likely that more than half

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62 The differences between jail and prison are technical. Jails are locally owned by a county, a municipality, or a city government. A prison is owned by the state or federal government and houses those convicted of state or federal crimes. Jails are usually situated near the place of arrest. Prisons are likely to be hundreds of miles away from where someone resides and was arrested, and in the case of the federal government, thousands of miles away. Stays in jail generally follow arrest and may be used for short sentences. In Seattle Municipal Court, all defendants are put in jails regardless of whether pre- or post-conviction. Despite the general short-term nature of incarceration in a jail, the trauma of being arrested and imprisoned, no matter how short term, cannot be underestimated.

63 See City Budget Office: Online Budget, Criminal Justice Contracted Services, <http://www.seattle.gov/city-budget/2017-18-adopted-budget/criminal-justice-contracted-services> (last visited Aug. 31, 2018).

64 As described earlier, incarceration itself increases housing instability and likelihood of homelessness. See <https://www.prisonpolicy.org/reports/housing.html>

are homeless.<sup>65</sup> Many live with substance use and have mental health needs. This is our most vulnerable population. The City must evaluate its use of incarceration for misdemeanor charges and clarify the outcomes it hopes to achieve by incarcerating misdemeanants. For the City to reach its goals around ending homelessness, reaching zero youth detention, and building a safer and more just City, it must shift its investments away from incarceration to restorative and healthy accountability practices.

The contracts do not include any means to ensure that those incarcerated receive their basic needs or any standard of care other than what the law requires, nor that they receive any resources for successful reentry upon exit. The City does not require the jails to establish a grievance process nor does it have a mechanism to receive complaints from those under the City's contract. Even if the City learns that the jails violate their own policies regarding treatment of those incarcerated, the contract does not provide a remedy. Because the contract includes a minimum "bed number" (the number of beds used by those being detained), requiring the City to pay a minimum amount regardless of number of beds used, there is little financial incentive for the City to examine its use of incarceration for low level crimes or to reduce incarceration rates.

**The Workgroup members include those who have experienced incarceration inside King County's downtown jail. These experiences shed light on unacceptable conditions, individuals not getting access to their medication, transgender individuals routinely being placed in solitary and/or segregation contrary to the jail's own policy, retaliation when trying to make complaints or request assistance, and individuals rarely receiving reentry or release support upon release.<sup>66</sup> The City needs to be accountable to the experiences of these individuals and must think differently about its jail contract if the City is committed to the aspirations of its Reentry Resolution and to protecting and caring for its most vulnerable residents.<sup>67</sup>**

**Background:** Currently, the City contracts with King County and Snohomish County to provide jail services for Seattle Municipal Court defendants who have been charged and/or convicted of misdemeanor crimes. The contracts for these services are managed by the City Budget Office (CBO). In 2012, the City signed a long-term inter-local agreement with King

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65 See King County Jail Health Services, Estimates of Homeless Individuals Served by Public Health's Jail Health Services and Health Care for the Homeless Network, January 1, 2017 – December 31, 2017 (August 10, 2018).

66 King County recently settled a lawsuit that alleged that DAJD violated the constitutional rights of youth held in one of King County's jails. As part of the settlement, King County must now work with a monitor to oversee the treatment of youth in the County's facilities. See Ryan Blethen, King County reaches deal to ban placing jailed juveniles in solitary confinement, Seattle Times, Aug. 20, 2018, available at <https://www.seattletimes.com/seattle-news/crime/king-county-reaches-deal-to-ban-placing-jailed-juveniles-in-solitary-confinement/>.

67 See Press Release, King County Pres Office, Executive Constantine names Rhonda Berry to Zero Youth Detention efforts, (Aug. 8, 2017), available at <https://www.kingcounty.gov/elected/executive/constantine/news/release/2017/August/08-berry-justice.aspx>.

County to provide jail services through 2030. The City also contracts with Snohomish County Jail as a secondary contract.<sup>68</sup>

**King County Contract:** At the time the City entered into the current contract with King County, the City had completed a multi-year process where the City investigated alternatives for jail services, including contracting with other counties or building its own jail.<sup>69</sup> King County had initially believed that it was running out of jail space and encouraged Seattle to look elsewhere for jail services, but that changed in 2010 when King County’s auditor informed the King County Council that the jail population had taken a “substantial and unprecedented’ nose-dive over the past three years and that the county stands to lose millions of dollars a year if cities move their prisoners elsewhere and the county fails to reduce costs.”<sup>70</sup>

Minimum bed numbers: Under the City’s contract with King County for jail services, the City agrees to pay for a minimum number of beds each year, and each year this bed minimum increases. The City may request a lower minimum bed number with 18 months’ notice to the County. In 2018 the floor was lowered to 215, and it will be set at 200 in 2019. For 2020, CBO has requested the absolute floor allowed in the contract of 187.<sup>71</sup>

In 2018, it costs the City a minimum amount of \$184 per day to incarcerate an individual. Due to the minimum bed number, the contract requires the City to pay no less than \$15 million a year to King County—even if the City had zero use of its jail. This amounts to slightly over \$43,000 each day.

Contract Performance and King County’s loss of accreditation: The City’s contract with King County does not require reporting by the County, beyond bed use demographics. The contract does not include any performance indicators that make clear the City’s desired outcomes from the contract, whether they are meeting any outcomes, or even meeting accreditation standards. It is unclear what the City’s response was when in 2014, King County Correctional Facility lost accreditation by the National Commission on Correctional Health Care (NCCCHC) due to “serious problems discovered with health care delivery within the King County Correctional Facility (and coupled with

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68 See City Budget Office, Re-Entry Recommendations – Response to SLI 402-2-A-1 (August 2018) (on file with author) (hereinafter “Response to SLI 402-2-A-1”).

69 See Seattle City Attorney’s Office, Seattle, King County OK jail contract, E-Newsletter Issue 2 (Nov. 2011), available at <http://www.seattle.gov/Documents/Departments/CityAttorney/2011NovemberNewsletter.pdf>.

70 Keith Irvin, King County Faces Glut of Jail Space, Seattle Times, December 8, 2010, available at <https://www.seattletimes.com/seattle-news/king-county-faces-glut-of-jail-space/>.

71 See City Budget Office, Re-Entry Recommendations – Response to SLI 402-2-A-1 (August 2018) (on file with author) (hereinafter “Response to SLI 402-2-A-1”).

unprofessional interactions with the survey team, made worse by apparent attempts to influence the accreditation process).<sup>72</sup>

Though it was eventually re-accredited in 2017, there were two years where the King County Correctional Facility was not accredited by the NCCHC. The NCCHC standards are industry practices developed to ensure minimum quality healthcare delivery to those incarcerated. Ten of the forty essential standards were unmet and some of those included serious allegations including improper responses to inmate deaths, incomplete mental health screenings, inadequate oral care screenings, failure to determine whether placing an individual in segregation was contraindicated medically, and failure to know the number and name of individuals who were pregnant, so they could access necessary prenatal care. Meanwhile, the City continued to house individuals within the jail and continued to pay King County for these beds.

**Snohomish County Contract:** In 2015, the City signed a contract with Snohomish County for use as a secondary jail.<sup>73</sup> This contract requires no minimum usage and is primarily used for individuals who are serving out their misdemeanor sentences and have few court transportation needs. It is up to the Court to determine whether an individual gets placed in Snohomish County jail and apparently, if an individual has increased medical or mental health care needs, they will likely remain in King County. The daily bed rate for Snohomish County jail is significantly cheaper than King County.

The cheaper daily bed rate comes at a cost to the individuals and the families of those placed there. Those placed in Snohomish County jail face greater challenges maintaining vital contact with family and attorneys. Not only is Snohomish County Jail outside of Seattle, Snohomish County Jail only allows video visits and visitors must have an email address to register for these video visits.<sup>74</sup> King County Jail allows face to face visits.<sup>75</sup>

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72 Letter from Tracey Titus, Manager of Accreditation Services, National Commission on Correctional Health Care to Commander Karlsson, King County Correctional Facility, (December 1, 2014).

73 Rikki King, Snohomish County Jail to take Seattle Inmates, HeraldNet, Nov. 30, 2015, available at <https://www.heraldnet.com/news/contract-approved-snohomish-county-jail-to-take-seattle-inmates/>.

74 See Inmate Visitation, <https://snohomishcountywa.gov/644/Visitation> (last visited Aug. 31, 2018).

75 See King County Correctional Facility – Seattle (KCCF), <http://www.kingcounty.gov/depts/jails/adult-detention/king-county-correctional-facility.aspx> (last visited Aug. 31, 2018).

## 2016-2017 costs comparison between King and Snohomish County:

2016	daily rate	total # of bed nights	Booking Fee
King Co	\$ 142.44	78,451	\$ 108.17
Sno Co	\$ 89.38	16,385	\$ 116.14
2017*	daily rate	total # of bed nights	Booking Fee
King Co	\$ 176.60	37,720	\$ 81.47
Sno Co	\$ 96.13	4,075	\$ 118.23

\* through June 30, 2017

Current Jail Usage: The City Budget Office data provided to the Reentry Workgroup shows a decline in jail usage and average length of stay (“LOS”) for those incarcerated under SMC charges. In 2015, the average LOS was 14 days. By 2017 this had dropped to 10.6 days. Since June 2017, the City has not been referring individuals to the Snohomish County jail.<sup>76</sup>

**Recommendation:** Eliminate the number of beds the City purchases above that which are being utilized for mandatory arrests/sentencing. Provide outcome-oriented oversight for the City’s contract for any remaining beds with county jails to ensure (1) appropriate care is provided for those incarcerated; and (2) to develop financial incentives for lowering incarceration rates.

- **Reduce the use of jail:** Reducing the harms caused by the criminal legal system must begin with reducing or eliminating the use of incarceration and ensuring that it is the last resort. The City should evaluate:
  - What are the City’s defined outcomes for jail contracts?
  - Do these investments help the City reach these outcomes?
- **Manage jail contracts to ensure access to care:** The City must review and manage jail contracts with the same care and consideration as any other City contract with service providers supporting vulnerable communities.<sup>77</sup> If the City opts to continue its reliance

<sup>76</sup> Response to SLI 402-2-A-1, P 2 (2018).

<sup>77</sup> See Seattle Human Services, HSD Contracting Requirements (2018) available at <http://www.seattle.gov/Documents/Departments/HumanServices/Funding/NOFA/HSD%20Contracting%20Requirements.pdf> (hereinafter “MASA”) (all contracted providers must review, agree to, and sign prior to executing a contract. The agreement allows HSD to terminate

on incarceration for misdemeanor defendants, then investments in jail services must be scrutinized, services must be carefully monitored, and the City must bear responsibility for the care and treatment of those who the City chooses to jail.<sup>78</sup> At a minimum, ensuring those incarcerated receive adequate care promotes a more successful reentry.

### **Specific actions include:**

- **City criminal legal system partners evaluate current sentencing framework to make a shared commitment in reducing use of jail for misdemeanors.**
- **Work to eliminate as many beds as feasible in the current contract.**
- **Work in partnership with community members who have lived experience with incarceration to renegotiate the contract with King County so that it reflects the City’s racial and social justice principles, ensures those incarcerated are getting their basic needs met, and provides financial incentives for the City to realize its goals of decarceration.**

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contract if provider fails to meet quality expectations including compliance with non-discrimination policies and other relevant laws). The MASA also requires the Agency to “establish a system through which applicants for and recipients of services under the Project Services Agreement may present grievances about the activities of the Agency or any of the Agency’s subcontractors.”

78 It is the Workgroup’s understanding that State law requires that for domestic violence related incidents, there is a mandatory arrest law ([RCW 10.31.100\(2\)](#)), and police officers in any Washington jurisdiction are required to make an arrest. However, there are no mandatory minimum sentences for domestic violence offenses in the RCW or SMC. In Washington State, DUI arrests are not mandatory arrest crimes, but upon conviction there are mandatory minimum incarceration penalties. See [SMC 11.56.020](#) (DUI); [SMC 11.56.025](#) (Penalties for DUI); [RCW 46.61.502](#) (DUI); [RCW 46.61.5055](#) (Penalties for DUI). Driving While License Suspended in the First Degree (DWLS 1) also carries a mandatory minimum sentence. See [SMC 11.56.320](#); [RCW 46.20.342\(1\)\(a\)](#). These are the only state or local misdemeanors with mandatory minimum sentences.



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## STRATEGY 6

### DECRIMINALIZATION

#### **Expand anti-poverty, diversion, and public health responses and interventions.**

**The problem:** The Workgroup has examined ways in which Seattle’s criminal legal system contributes to mass incarceration even when its jurisdiction is limited to misdemeanor offenses. One of the most effective ways to reduce the City’s contribution to mass incarceration is to reduce the use of arrest and jail for misdemeanor offenses.

As explained earlier, even short periods of incarceration cause significant harm to individuals and often strain their family and community. Reducing the need for reentry services and support begins with preventing individuals from entering jail. Individuals facing charges at SMC are particularly vulnerable and any further stress created by incarceration, probation surveillance, multiple court dates, and conviction can push them and their families to the breaking point.

Based on SMC data, approximately 50% of defendants who are charged with misdemeanors by the City Attorney’s Office are booked into jail immediately after arrest by the Seattle Police Department (SPD).<sup>79</sup> The other half of defendants are given a summons to appear in court at a future date and time.<sup>80</sup> Most of the individuals booked upon arrest must then post bail for their release. Since 90% of individuals charged in SMC are living in poverty, it’s likely many will not be able to make bail and will remain in jail.

According to information provided to the Workgroup during a meeting with an SPD representative, other than state law, there is no SPD policy regarding when misdemeanor arrests must be made. This arrest practice results in thousands of individuals incarcerated each year for alleged misdemeanor offenses, before adjudication, while still legally innocent.

If an individual is then convicted of a misdemeanor this conviction will create more burdens. It is now widely understood that misdemeanor convictions, even when they don’t carry a jail sentence, can have serious impacts on an individual.<sup>81</sup> Misdemeanor convictions can trigger

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79 Seattle Municipal Court Research, Planning and Evaluation Group, Pre-Trial Releases at Municipal Court, September 8, 2015 (on file with author).

80 Id.

81 See Maya Rhodan, A Misdemeanor Conviction is Not Aa Big Deal, Right? Think Again, TIME, April 24, 2014, available at <http://time.com/76356/a-misdemeanor-conviction-is-not-a-big-deal-right-think-again/>.

the same consequences that a felony conviction brings, including negative impacts to parental and housing rights as well as economic and housing opportunities. Misdemeanor convictions “send people down a route that limits their life chances and sets up conditions that can lead them to commit additional crime.”<sup>82</sup> When an individual is already struggling with issues related to poverty or mental health, the likelihood of further destabilization after a misdemeanor conviction is almost certain.

In Seattle, when 90% of people incarcerated are living in poverty, at least half of those incarcerated are homeless. Black people make up a mere 7% of the Seattle population, but 36% of the incarcerated population. It is hard to not see similarities between the City’s criminal legal system and the Black Codes.<sup>83</sup> The impacts of both are devastating. After arrest and incarceration individuals are then further burdened by their legal debt, restricting opportunities and stability, and legally denied fundamental access to life sustaining resources based on their criminal record.

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## **A NOTE ON RACE DATA COLLECTION IN SEATTLE’S CRIMINAL LEGAL SYSTEM**

Seattle’s criminal legal system’s departments (CAO, SMC, SPD) primarily rely on race data that is collected from SPD and based on an SPD officer’s subjective determination of an individual’s race. Race categories are limited to the categories established by the Federal Bureau of Investigation through the Uniform Crime Reporting and National Incident-Based Reporting System (NIBRS). Race categories under NIBRS are White, Black, American Indian/Alaskan Native, Asian/Pacific Islander, and Unknown.<sup>84</sup> NIBRS does allow for the reporting of the ethnicity of the arrestee as Hispanic, Not of Hispanic Origin or Unknown. SPD, though, does not consistently use the ethnicity field. There are many impacts of this data collection practice including the erasure of Latinx communities.

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<sup>82</sup> Id.

<sup>83</sup> The practice of criminalizing poverty is rooted in post-slavery Black Codes. “Black Codes” are the numerous laws enacted in the states of the former Confederacy after the American Civil War, intended to maintain white supremacy. Black Codes were primarily vagrancy laws that declared a black person to be vagrant if unemployed and without permanent residence. A person could be arrested, fined, and bound out for a term of labor if unable to pay a fine. The Black Codes were also an extensive set of restrictions that forbade black people from pursuing things like sustainable employment, subsistence farming, and commercial fishing. These laws were designed to replace the social controls of slavery that had been removed by the Emancipation Proclamation and the Thirteenth Amendment to the Constitution. In the context of mass incarceration, the Black Codes served as a tool where Black individuals could be put back into conditions of enslavement without it being called “slavery.”

<sup>84</sup> National Incident-Based Reporting System Volume 1: Data Collection Guidelines; U.S. Department of Justice Federal Bureau of investigation Criminal Justice Information Services Division, Uniform Crime Reporting (August 2000) <https://www2.fbi.gov/ucr/nibrs/manuals/v1all.pdf>.

Since the collection of race data is based on an officer's perception of an individual's race, how are those who identify as Latinx or Hispanic being catalogued? How accurate is this practice? Without reliable and comprehensive data regarding race it becomes impossible to assess racial disproportionality, or to assess the needs of the Latinx community.<sup>85</sup>

How data is currently collected in Seattle's criminal legal system also impairs our ability to measure racial disproportionality. For example, SMC data tells us that that 53% percent of all 2017 assault charges were filed against those marked "White," 33% against those marked "Black," 3% against those marked "Native American," 6% against those marked "Asian/Pacific Islander," and 5% labeled "unknown".<sup>86</sup> There is obvious racial disproportionality present, but the extent of the racial disproportionality is unclear. As just one example, it is unclear how many individuals labeled "White" were actually Latinx, thus masking the extent of racial disproportionality and its impact on Latinx communities.

Unfortunately, this issue isn't limited to Seattle. The Urban Institute reviewed similar practices throughout the country and underscored their impact, "[u]sing data to illustrate issues can change the conversation and influence policy and practice. Excluding justice system-involved Latinos from data excludes them from policy."<sup>87</sup> One of their recommendations is that jurisdictions "should, at the very least, meet current Census Bureau standards and collect race and ethnicity data separately before combining them. This would result in more descriptive and accurate subcategories, such as 'non-Hispanic white' and 'Hispanic black.'"<sup>88</sup>

**Background:** In Seattle, crimes are defined by the Seattle Municipal Code and by state law in the Revised Code of Washington. The Seattle Municipal Code is a compilation of the ordinances (laws) passed by the City. Because the City cannot change state law, the Workgroup prioritized its recommendations to those that City agencies could impact directly, including those crimes catalogued in the Seattle Municipal Code.<sup>89</sup>

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85 John C. Moritz, Study: Latinos are under-counted in criminal justice system, Abilene Report News, Dec. 14, 2018, available at <https://www.reporternews.com/story/news/local/texas/2016/12/14/study-latinos-under-counted-criminal-justice-system/95447010/>

86 Seattle Municipal Court Research, Planning and Evaluation Group, Percentage of Charges Filed for Top 10 Most Frequent Violations Filed at SMC by Defendant Race, 2016-2017, July 2018 (on file with author).

87 Urban Institute, The Alarming Lack of Data on Latinos in the Criminal Justice System, <http://apps.urban.org/features/latino-criminal-justice-data/> (last visited Aug. 31, 2018).

88 Id.

89 See Workgroup Principles in Executive Summary.

Seattle’s criminal legal system is supported by Executive departments, the City Attorney’s Office, Seattle Municipal Court, and the City Council. Each arm of the system is responsible for specific functions, like the gears of a machine enabling a coordinated operation of the whole.

**Below is an abbreviated overview of how these agencies function to enforce crimes of the Seattle Municipal Code:**

- **The Seattle City Council passes legislation** that become ordinances within the Seattle Municipal Code. City Council has authority to amend or repeal Seattle Municipal Code sections. City Council also passes the City’s budget.
- **The Seattle Police Department investigates and arrests** individuals alleged to have committed misdemeanor and gross misdemeanor violations of the Seattle Municipal Code (in addition to state criminal violations).
- **The Seattle City Attorney’s Office prosecutes** all misdemeanor and gross misdemeanor violations of the Seattle Municipal Code.
- **The Seattle Municipal Court adjudicates** all alleged misdemeanor and gross misdemeanor violations of the Seattle Municipal Code filed by the Seattle City Attorney’s Office.

**The recommendations in this section are aimed at different agencies based on their scope of power and responsibilities.**

**Recommendation:** The Reentry Workgroup recommends the City move away from reliance on the criminal legal system to address behaviors related to poverty, illness, and oppression. The Workgroup’s recommendations in this section aim to reduce the criminalization of poverty and the disproportionate representation of Black and Indigenous individuals, other targeted communities of color, and people with disabilities within Seattle’s criminal legal system. The strategies to reach this goal include decriminalization, limiting arrests for misdemeanor crimes, and supporting the City’s investment in diversion and other restorative responses to criminalized behaviors.<sup>90</sup>

The City has been increasing its development and use of diversions for those who would otherwise be facing adjudication in SMC. Both the City Attorney’s new pre-filing diversion project for young adults and the anticipated expansion of Law Enforcement Assisted Diversion (LEAD), are encouraging signs that the City is exploring and investing in other ways of addressing unwanted behaviors rather than relying solely on the criminal legal system. The

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<sup>90</sup> As is the case throughout this report, these recommendations do not constitute an exhaustive list of recommendations the Workgroup considered or believe are necessary, the recommendations included in this chapter are only those recommendations that the Workgroup has had the current capacity to develop.

City's resolution to reach zero use of youth detention is another powerful commitment to shift material resources and investments away from the criminal legal system to more effective and restorative alternatives.<sup>91</sup>

The Workgroup recommends the City continue to grow diversion opportunities for those who would face adjudication in SMC. Currently, there are no formal pre-filing diversion opportunities afforded to individuals who are over 25 years old and not otherwise eligible or appropriate for the LEAD program. In order to increase community safety and reduce institutional harm the City should shift funding away from jail beds and into community-based programs that are able to provide more holistic and individually tailored supports.

The criminal legal system is too often used to answer behavioral health concerns. Individuals are often criminalized and incarcerated when a public health response is more effective. Supervised consumption spaces, known in King County as Community Health Engagement Locations (CHELs), can provide such a public health response to behaviors traditionally left to harmful law enforcement practices. CHEL facilities are an evidence based public health intervention designed to reduce fatal overdose, transmission of HIV and viral hepatitis, and hazards related to outdoor drug use while promoting access to wraparound social services and improved public safety.<sup>92</sup> The Workgroup asks the City to take all necessary steps to establish CHEL facilities without any further delay.

Lastly, it is imperative that the City make changes that allow SPD to accurately capture race data. Current practices cause harm by distorting system data and Latinx involvement, impairing the Latinx community's ability to assert representation in critical criminal legal conversations, and prevents the City from an accurate assessment of the disproportionality within Seattle's criminal legal system.

### **Specific actions include:**

**Seattle City Attorney's Office:** These recommendations aim to support the City Attorney's Office in exercising prosecutorial discretion.

### **Misdemeanor thefts:**

- Decline prosecutions of thefts where merchandise is a nominal amount
- Remove alcohol as an aggravating factor when developing policies of prosecutorial discretion regarding theft
- Do not request jail time for those charged with theft

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91 Press Release, Seattle City Council, O'Brien, Council Endorse Resolution Opposing Youth Detention (Sept. 21, 2015), available at [http://www.seattle.gov/news/newsdetail\\_council.asp?ID=15284](http://www.seattle.gov/news/newsdetail_council.asp?ID=15284).

92 See <https://www.yestoscs.org/>.

- If/when property is recovered by a retail establishment, do not file criminal charges but instead develop an alternate response to address any actual harm to the retail establishment.<sup>93</sup>

### **Drug Traffic Loitering:**

- Decline to prosecute alleged drug traffic loitering crimes

### **Prostitution Loitering:**

- Decline to prosecute alleged prostitution loitering crimes

### **For all crimes:**

- Expand use of prefiling diversion for individuals over 25 years old
- Limit prosecution when behavior is related to mental illness and refrain from asking for competency restoration on any misdemeanors<sup>94</sup>
- Limit requests for jail sentences unless required by law

**Seattle City Council:** The Seattle City Council has the power to pass legislation that become ordinances and laws within Seattle Municipal Code, including the chapter on criminal violations.<sup>95</sup> However, this power is constrained by state law that requires that the “punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Such cities alternatively may provide that violations of ordinances constitute a civil violation subject to monetary penalties, but no act which is a state crime may be made a civil violation.”<sup>96</sup> Thus, the Workgroup’s recommendations are limited to those crimes which are not state crimes and where the City Council has power to amend or repeal a criminal code section.

- **Repeal Seattle Municipal Code Section 12A.20.050 – Drug-traffic loitering.**<sup>97</sup>

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93 It is not uncommon for retail establishments to still pursue financial remedies even when the merchandise is recovered.

94 There is disagreement among Workgroup members whether seeking restoration is mandatory. RCW 10.77.088. However, the Workgroup agrees that the process to restore competency is harmful in its current form and other more effective responses to mental health issues should be explored. Though the Workgroup acknowledges that the number of individuals who were ordered to have competency restored has been quite low in Seattle Municipal Court, the Workgroup still wants to call attention to this problematic practice and hopes that the City Attorney’s Office leads other jurisdictions to rethink the benefit of restoration for misdemeanor defendants. “Under Washington state law, whenever there is reason to doubt that an individual with mental disabilities is competent to stand trial, the trial court is to order an evaluation to determine competency. State law charges Eastern State Hospital (ESH) and Western State Hospital (WSH) with evaluating and treating these individuals. If their competency is restored, their criminal cases may be adjudicated; if their competency is not restored, the criminal charges are dismissed. During the evaluation and restoration periods, speedy trial rights are automatically waived, and the criminal proceedings are stayed.” See Press Release, Federal Court Rules Long Delays in Mental Health Services for Individuals in Jail Violate the Constitution (Dec. 22, 2014), available at <https://www.aclu-wa.org/news/federal-court-rules-long-delays-mental-health-services-individuals-jail-violate-constitution>.

95 [SMC 12A](#), et seq.

96 [RCW 35.22.280](#).

97 [SMC 12A.20.050](#).

The most recent version of the ordinance that created the crime of Drug Traffic Loitering was last modified in August of 1992 during a climate where the “War on Drugs” was considered an effective means to address substance use and the illegal drug trade. Since then, much has been documented regarding the disastrous racialized impacts of these policies on Black and Indigenous communities and the growth of mass incarceration. As the Drug Policy Alliance succinctly states, “[T]he drug war has produced profoundly unequal outcomes across racial groups, manifested through racial discrimination by law enforcement and disproportionate drug war misery suffered by communities of color.”<sup>98</sup> The Workgroup recommends that the City eliminate the vestiges of this racist and counterproductive framework. Removing this ordinance from the Seattle Municipal Code would be a great start to this endeavor.<sup>99</sup>

- **Repeal Seattle Municipal Code Section 12A.10.010 Prostitution loitering.**<sup>100</sup>

Criminalizing behaviors under the Prostitution Loitering ordinance targets individuals in the commercial sex industry, a group already at high risk for trafficking, abuse, and other exploitation. Bringing them into the criminal legal system will only exacerbate any underlying unmet needs and exposes them to further physical and sexual harm caused by incarceration. In other cities with similar ordinances, data has shown that these ordinances disproportionately impact “cisgender and transgender women of color and that many women who are participating in legal, routine activities are arrested for this offense and must then be put in the position to testify against police and have their word be weighed against a law enforcement officer.”<sup>101 102</sup>

- **Expand Diversion: Invest in pre-filing diversion opportunities for individuals and shift funding away from jail beds.**

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98 Race and the Drug War, <http://www.drugpolicy.org/issues/race-and-drug-war> (last visited Aug. 31, 2018).

99 It is the Workgroup’s understanding that the current City Attorney rarely prosecutes individuals for the crime of drug traffic loitering. However, as long the crime remains in the Seattle Municipal Code, police officers may still arrest an individual for alleged violations of this code and the current or future City Attorney has the power to file charges against an individual for this crime.

100 [SMC 12A.10.010](#).

101 See Luke Stoddard Nathan, Bill Would Repeal New York’s Prostitution Loitering Law, The Alt, April 12, 2018, available at <http://thealt.com/2018/04/12/bill-would-repeal-ny-loitering/>.

102 Though this crime is rarely enforced under the current City Attorney, as long as it remains as a crime under the Seattle Municipal Code, police can still arrest on this offense and future City Attorneys can decide to prosecute.

**Seattle Police Department:** It is the Workgroup’s understanding based on conversations with SPD that there is no policy or written guidelines regarding when to arrest for misdemeanor offenses absent the limited situations in which state law mandates arrest.<sup>103</sup> Absent state law, it is largely left up to each individual officer’s discretion with some oversight, in that each arrest be approved by a supervisor. While the Workgroup acknowledges there are times when arrests are required by state law and necessary to prevent future violence, there are many times when arrests are not necessary or required but still occur.

- **Limit arrests for nonviolent misdemeanor offenses and increase use of citations, summons, or forms of diversion, in lieu of arrest.**
- **In partnership with all relevant departments, develop a more accurate way to capture race data.**

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<sup>103</sup> State law mandates arrest for certain domestic violence situations and certain repeat DUI offenders.



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## STRATEGY 7

### REENTRY WORKGROUP'S NEXT PHASE

**Background:** The Workgroup would like to see the City invest as much in reentry support as it does in funding incarceration. However, due to time constraints, limitations on budgeting expertise, and lack of resources, the Workgroup was not able to develop a comprehensive fiscal analysis regarding this repurposing of City funds. The Workgroup acknowledges the importance in doing this and believes that more work and capacity is necessary to develop the long-term Citywide reentry support strategic plan with a funding strategy. The Workgroup recommends that the City invest in an advisory board directed to develop this strategy and oversee its implementation.

**Recommendation:** The Workgroup recommends the City develop an advisory board that: (1) develops the fiscal analysis and implementation plan for the City's reentry strategies; (2) provides consultation on any Request For Proposal (RFP) or Request For Qualification (RFQ) created pursuant to the strategic plan; (3) informs the City's policies that impact the criminal legal system and/or reentry support; (4) monitors the implementation of any recommendation from this report; (5) is led by those with lived experience and a strong analysis of systemic racism and the criminal legal system; and (6) the advisory board will be competitively compensated for their time and expertise.

This advisory board would serve to continue making recommendations that address the barriers to successful reentry as well as advise on other related policy proposals the City hopes to implement. It would help illuminate the unintended consequences of policies as well as strengthen proposals to maximize their success.

#### Advisory Board Scope of Work:

- Develop a long-term Citywide reentry support strategy that includes comprehensive fiscal analysis in preparation for the 2021 - 2022 City Budget.
- Oversee implementation of the Reentry Workgroup's recommendations and make ongoing additional recommendations to reduce barriers faced by those living with criminal history.
- Review all policies, investments, and budgets that target the "reentry community" or "those living with criminal history" and make recommendations to Council and/or the Mayor.
- Provide oversight over any City contracts with jails, including reviewing contract renegotiations or contract modifications.

## Advisory Board Composition:

- More than fifty percent of members with direct lived experience of incarceration.
- Representatives from City departments and those who advocate for criminal legal system policy work on behalf of those with lived experience or are named in the recommendations.
- Other relevant stakeholders who work on behalf of those living with criminal history.

## Advisory Board Staffing Requirements:

- At least one (1) FTE (who has direct knowledge of the criminal legal system) to convene the advisory board, develop accountable relationships with outside organizations working on reentry issues, and help develop capacity in reentry communities to advise a Citywide reentry support strategy.
- .5 FTE policy analyst position to provide policy support for the advisory board.
- .5 FTE administrative support position to provide meeting notes, schedule meetings, etc.
- 2-3 existing internship positions from the Youth Employment Program to develop leadership in youth who are also reentering from incarceration.

## Other required support:

- Community stipends, food, funding for capacity building, community engagement, and a facilitator

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## CONCLUSION

The Workgroup is grateful the City recognized its obligation to strengthen support for those returning from incarceration and appreciates the opportunity to recommend strategies that will achieve this goal. This report and its recommendations represent an intensive collaborative process that highlights knowledge gained from those who have direct experience of leaving prison and living with criminal history. Still, this report only represents the first step in getting to the goals articulated in Resolution 31637. The Workgroup hopes the City keeps its commitment and adopts these recommendations that will strengthen support for those reentering, dismantle the barriers to opportunities, and reduce the numbers of individuals who face incarceration.

## APPENDIX

### **Executive Summary from “Inventory of Criminal and Infraction Fines and Fees at SMC: A research report in response to City Council Resolution 31637”**

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#### **Executive Summary**

This report is being issued by Seattle Municipal Court (SMC) to fulfill the requirements of City Council Resolution 31637, which directed the City of Seattle Reentry Work Group to “inventory and assess the City’s current imposition and collection of fees and fines for criminal and infractions and the impact of such on successful reentry.” SMC analysts worked with the Seattle Office of Civil Rights to define the scope of work for this inventory.

Washington State has a particularly challenging court funding scheme. The result is a systemic dependency on the imposition of legal financial obligations (LFOs) as a way of funding courts and the criminal justice structure. Assessing LFOs therefore requires careful balancing. On one hand, our court is bound by LFO regulations and underlying policy enacted by the Washington State Legislature and Seattle City Council. On the other, we are sensitive to the fact that the imposition of LFOs falls disproportionately upon those least able to afford them. There is growing momentum to review how they are used throughout the criminal justice system. In particular, how LFOs intersect with race and social justice issues, poverty, reentry opportunities, and equitable administration of justice.

Section One of the report provides information on SMC policies and business practices related to the collection of court-ordered fees and fines. This section provides detail on ability-to-pay and eligibility for public-defense determinations, community service and time payment plan opportunities, information on victim restitution, and information on SMC’s contracted debt-recovery provider. Key findings in this section include:

- **SMC collected \$47 million in revenue associated with court-ordered penalties in 2016. \$43.3 million went to the City of Seattle and \$3.8 million to the State of Washington.**
- **Criminal-related legal financial obligations make up less than 1% of all collections revenue recovered.**
- **At least 93% of monies collected from legal financial obligations at Seattle Municipal Court originate from infraction tickets.**
- **Approximately one out of five defendants with a criminal case at SMC pays for a private attorney.**

Section Two of the report provides an inventory of legal financial obligations imposed on criminal cases at SMC. Information is presented by defendant demographic characteristics where available. Key findings include:

- In 2016, 9% of monies collected from criminal cases were mandatory regardless of defendant indigence, 56% were mandatory unless indigence was found, and 35% were discretionary.
- Case type is the biggest determinant of imposed LFO amounts. DUI cases receive significantly more fines and fees than DV and Non-DV, Non-DUI cases.
- 62% of Non-DV, Non-DUI, 42% of DV and 7% of DUI cases have all LFOs suspended.
- Median LFO amounts are slightly higher for Asian / Pacific Islander and White defendants than for Black and Native American / Alaska Native defendants.
- When comparing average LFO impositions between White defendants and other races, there were some statistically significant differences.
- Preliminarily, it appears SMC may have lower LFO impositions than other jurisdictions, based on limited available data.

Section Three of the report provides an inventory of fines and fees imposed on infraction cases at SMC. Information is presented by defendant demographic characteristics where available. Key findings include:

- **Parking and Traffic Camera tickets account for nearly 85% of infraction fine and fee monies collected, but because tickets are issued to vehicles, demographic information is unavailable.**
- **State assessments make up 82% of the total cost of infraction tickets.**
- **Black defendants and defendants under the age of 25 receive higher average and median infraction penalties on traffic infractions. This is largely because they receive tickets for violations for which the state has set higher penalty amounts.**
- **Defendants of different races contest and mitigate tickets at different rates, however, they receive similar reductions after contested and mitigation hearings.**

Section Four of the report offers a discussion regarding how court practices involving imposition and collections of legal financial obligations are consistent with court policy goals. The following are SMC's policy priorities when it comes to the imposition of legal financial obligations.

- **Comply with state and local statutes regarding mandatory LFO imposition.**
- **Make ability-to-pay determinations before imposing fines and fees.**
- **Provide options for people to meet legal financial obligations.**
- **Hold people accountable for violations.**
- **Impose user fees for some court services.**

The mission of Seattle Municipal Court is to provide a forum to resolve alleged violations of the law in a respectful, independent and impartial manner. The Court believes these LFO priorities and the results in this study suggest judges and staff are upholding this mission.